

1
2
3 CONSTITUTIONAL CONVENTION

4 OF THE

5 STATE OF MARYLAND
6
7
8 -----9 Chamber of the House of Delegates
10

11 State Capitol

12 Annapolis, Maryland

13 January 5, 1968 - 1:00 p. m.
14 -----15
16
17 HONORABLE H. VERNON ENEY,
18 PRESIDENT

19 Reported by:

20 D. Fitzgerald
21

1 AFTERNOON SESSION

2 January 5, 1968 - 1:00 p.m.

3 THE PRESIDENT: The Sergeant at Arms will
4 clear the aisles and close the doors.

5 The Convention will please come ot order.

6 The invocation today will be offered by the
7 Reverend John C. Chapman of Lexington Park Baptist
8 Church in Saint Marys County. Reverend Chapman is
9 Delegate Dorsey's pastor.

10 Reverend Chapman.

11 REVEREND CHAPMAN: For our nation and our
12 state and our glorious heritage, we lift our hearts unto
13 Thee in gratitude. For all who have lived and believed,
14 who have loved and given of themselves their time, their
15 fortunes, and their lives to make this heritage possible,
16 we are grateful. .17 Grant unto us, Our Father, a new dedication
18 to the proposition that we shall preserve and shall make
19 it possible for our posterity to have all of the good
20 things that we have received, and now, Father, we invoke
21 Thy blessing upon these who come to plan and to give of

1 themselves in thought, commitment, and dedication, to give
2 us a better constitution. Heighten Thou their thinking,
3 deepen Thou their devotion to the great causes of state,
4 nation, and persons. Grant unto them, Our Father, strengthened
5 wills to do what is necessary. Endow them with the
6 courage, Our Father, that characterized all who helped
7 to build our blessed state and nation. Go with us now
8 and give us divine guidance, in His name, Amen.

9 THE PRESIDENT: Thank you.

10 Roll call.

11 Has every delegate answered roll call?

12 The Clerk will record the roll call.

13 There being a quorum present, the Convention
14 is in session.

15 DELEGATE DORSEY: Mr. President.

16 THE PRESIDENT: Delegate Dorsey.

17 DELEGATE DORSEY: I have a point of personal
18 privilege. I would like to call to the Convention's
19 attention that Mrs. Chapman, the wife of Reverend Chapman,
20 who just delivered the invocation, is seated in the
21 gallery. I would like for the Convention to give her a

1 warm welcome.

2 (Applause)

3 THE PRESIDENT: The Chair recognizes Delegate
4 Borom, the Vice Chairman of the Committee on Calendar
5 and Agenda.

6 DELEGATE BOROM: Mr. Chairman, I move the
7 adoption of today's calendar.

8 THE PRESIDENT: Is there a second?

9 (Whereupon, the motion was seconded)

10 (Applause)

11 THE PRESIDENT: All in favor signify by saying
12 Aye: contrary No.

13 The Ayes have it, and it is so ordered and the
14 Calendar is adopted.

15 The Chair has a communication.

16 Delegate Mitchell.

17 DELEGATE MITCHELL: Mr. President and fellow
18 delegates, I rise to a point of personal privilege.

19 THE PRESIDENT: State the privilege.

20 DELEGATE MITCHELL: We have in the balcony over
21 the podium students from the Pittsfield Elementary School

1 with their vice principal, Mrs. Agatha Oak of Wicomico
2 County and their teachers Mrs. Polk and Mrs. Rayne.

3
4 Let us give them a warm welcome also. (Applause)

5 THE PRESIDENT: I have a communication which I
6 will ask the Reading Clerk to read.

7 MR. QUILLEN: "103 Record Street, Frederick,
8 Maryland. January 4, 1968.

9 "Dear President Eney: It will be appreciated
10 if you will express to the delegates and staff of the
11 Convention my thanks for the Paul Revere colonial skewer.
12 Its clean classic lines make it a lovely modern letter
13 opener. Delegate Barrick delivered this gift to me just
14 before Christmas.

15 "I enjoy its beauty and usefulness, but it is
16 made much more wonderful to me because all of you found
17 time, in your busy days and nights of dedicated unselfish
18 service to our beloved Free State -- time to show warm
19 and loving concern for one person. How fortunate this
20 one person is. I will cherish this as long as I live.
21 Sincerely, Mildred R. Storm."

1 (Applause)

2 Reports of Committees.

3 Motions and Resolutions. Resolution No. 27.

4 The Clerk will read the resolution.

5 MR. QUILLEN: Resolution No. 27 by the Committee
6 on Rules, Credentials, and Convention Budget, Alfred L.
7 Scanlan, Chairman, a resolution to authorize the president
8 to carry out the post Convention activities of the
9 Constitutional Convention.

10 WHEREAS, the Constitutional Convention will carry
11 on certain activities after adjournment of the Convention
12 sine die as provided in other Resolutions of this
13 Convention and in Chapter 4 of the Acts of 1967, and

14 WHEREAS, under the Rules of the Convention
15 the President of the Convention is the chief executive
16 officer of the Convention and is responsible for the
17 employment of all persons and firms for Convention activities
18 and for the expenditure of all Convention funds.

19 NOW, THEREFORE, BE IT RESOLVED, that the
20 President of the Convention is authorized to employ or
21 enter into contracts on behalf of the Convention with

1 public information program and the aspect of winding up
2 the affairs of this Convention, I think it will all
3 be combined so you can't put your finger on one employee
4 doing one job. All these things are interrelated.

5 THE PRESIDENT: Delegate James.

6 DELEGATE JAMES: Mr. President, I don't seem
7 to have a copy of Resolution 26.

8 DELEGATE DULANY: Yes.

9 THE PRESIDENT: Will the pages please get a
10 copy of Resolution 26?

11 DELEGATE JAMES: I would like to know whether
12 this resolution would authorize the President to possibly
13 join with the General Assembly in conducting necessary
14 research. I believe you said that, and I want to make
15 sure that that is correct.

16 DELEGATE DULANY: That is our intention. We
17 don't have it spelled out specifically. It was our
18 intention that the Committee and the President would be
19 working in connection with the General Assembly. Certainly
20 the staff that would be appointed by this Convention or
21 by the President of this Convention would be working for

1 and what we feel should be carried on up until May 14.
2 That is the duty we have under the mandate of the General
3 Assembly to inform and disseminate information to the
4 general public so they can make an intelligent and
5 informed choice on May 14.

6 We are not to take a pro or con attitude on the
7 issues, but merely to inform. We have had many meetings
8 and advised on many policies. We hope that we have been
9 helpful and that the Office of Public Information has
10 been helpful to the delegates. The purpose of the
11 resolution which has been presented to you, Resolution
12 No. 26, are three-fold.

13 First, the most important function is to carry
14 out the mandate of the legislature to inform the public
15 of the content of the new Constitution.

16 Secondly, we must wind up the affairs of the
17 Convention in an orderly and businesslike manner. We
18 cannot adjourn sine die and walk out and leave things as
19 we are. I am not certain that the legislature would
20 approve of this also.

21 Finally, the legislative leaders have requested

1 that a staff be retained to work with them in conjunction
2 with the legislative program in connection with the new
3 Constitution.

4 The Attorney General's opinion, which was
5 placed on your desk, which was dated December 26, sets
6 forth the authority of this Convention to adopt certain
7 post convention policies and authorizes certain post
8 convention activities. This confirms the authority that
9 we had assumed that we had had.

10 The Resolution which was distributed refers to
11 the mandate -- In the Act it refers to the necessity to
12 wind up the affairs of the Convention in an orderly and
13 expeditious manner, and it refers to the necessity of having
14 a staff and offices for a public information office as
15 well as winding up the affairs of the Convention.

16 The Resolution then provides we shall carry
17 out that mandate. It authorizes the president and first
18 and second vice president to continue to represent this
19 body as they have in the past. It provides in the event
20 of any disability of the president, the first vice
21 president would serve in his place. It provides for the

1 appointment of a post-convention committee on public
2 information.

3 In other words, if you recall the Chairman of
4 the Rules Committee's statement at the very inception of
5 this Convention. There was a statement that all committees
6 would die when this Convention would adjourn sine die.
7 That is actually the fact insofar as our committee is
8 concerned, and there will be a post-convention public
9 information committee appointed under the terms of this
10 resolution.

11 The resolution also authorizes the president to
12 appoint such other committees as he deems necessary to
13 wind up the affairs of the Convention. The president is
14 also authorized in a similar fashion, as he is authorized
15 under the rules of the Convention, to secure a staff and
16 offices to continue the affairs of the Convention until
17 the referendum on May 14.

18 Finally, the president is authorized to request
19 additional monies from the State of Maryland. The
20 Committee on Public Information urges the adoption of
21 this resolution.

1 If there are any questions that I can answer,
2 I will be happy to endeavor to do so.

3 THE PRESIDENT: Are there any questions of
4 the Committee Chairman?

5 Delegate Burdette.

6 DELEGATE BURDETTE: I should like to make just
7 a little legislative history. About the intent of the
8 Committee with respect to page 3 with the first resolve,
9 the language empowers the president to employ an
10 appropriate staff which will, under the direction of the
11 president, conclude the business and including in that
12 conclusion of the business, the compilation, the preservation,
13 and the publication, where desirable, of its files,
14 records, transcripts, histories, and journals.

15 Now, I hope, Mr. Chairman, and I am virtually
16 sure that the intent of the Committee ^{is} that this language
17 authorizes the president to decide what the Convention
18 shall do with regard to preservation and publication so
19 far as the Convention itself is concerned. I think it
20 could be interpreted, however, to authorize that the
21 Convention has an exclusive use or an exclusive power to

1 determine what might be preserved or published.

2 I am hoping that the intent of the Committee,
3 and if the resolution is passed, the intent of the
4 Convention is that, of course, the Convention under the
5 management of the President may publish under its
6 auspices as it seems to be desirable, but that other
7 people not involving the Convention may have full access
8 to its records for research and that they may publish
9 all or part of those records through private enterprise,
10 that they may have the full access which American
11 scholarship may need with respect to this Convention
12 without any use of the interpretation that publication
13 where desirable would leave the private publication to
14 the determination of the Convention.

15 THE PRESIDENT: Delegate Dulany.

16 DELEGATE DULANY: These are public records.
17 the purpose of the resolution is only to authorize the
18 publication where we feel it would be necessary for us
19 to publish the records.

20 It is not in any sense meant to be restrictive
21 or limiting on the publication or study of these records

1 by outside groups or agencies. This is only for the
2 authority of the Convention to act. Not in any sense
3 is it meant to be a limitation on the authority to
4 publish.

5 THE PRESIDENT: I think the President ought
6 to add to that statement for certainty and for emphasis.
7 All Convention records in the opinion of the President,
8 and this is the policy uniformly followed, are public
9 records. The official journal, that is the original
10 notes of the Journal Clerk, have been microfilmed each
11 day and are in the Hall of Records where, of course, they
12 are always available to the public. The files of the
13 Convention and of all of the Committees will be turned
14 over ultimately to the Hall of Records where they will,
15 of course, always be available to the public.

16 The Archives has already put in motion plans
17 to collect all of the documents from the various committees,
18 all the files of the officers and all of the official
19 papers of the Convention. These are being catalogued and
20 boxed for delivery to the Hall of Records so that I
21 would anticipate that within thirty days after the

1 Convention had adjourned sine die, the records would all
2 be physically in the possession of the Hall of Records.

3 The publication of these records, as that
4 term is used in the resolution, would be construed by
5 the President to mean publication under the auspices of
6 or at the expense of the Convention, leaving it to
7 private enterprise to publish as much or as little as
8 might be desired.

9 Delegate Pullen.

10 I might add that in addition
11 to the arrangements just outlined for the delivery of the
12 records to the Hall of Records, we have made arrangements
13 to deliver to a number of libraries throughout the State
14 copies of all Convention records that have been reproduced
15 in quantity, not, of course, such things as correspondence,
16 of which there may be only one copy, but we have been
17 preserving for delivery to half a dozen libraries, including
18 the State Library in Annapolis, the library at the
19 University College, Johns Hopkins University, and other
20 college libraries, Pratt Library in Baltimore, all
21 proposals, committee reports, and every document that

1 has been printed by the Convention.

2 THE PRESIDENT: Delegate Pullen.

3 DELEGATE PULLEN: Mr. Chairman, I didn't
4 know that you were a mind reader. You have just made
5 what I think is a very practical suggestion. I am
6 turning over all the material that I have, transcripts,
7 and the like, to the law library of the University of
8 Baltimore. I was going to suggest that members of the
9 Convention who live near colleges or local libraries do
10 the same thing. The librarians tell me that they really
11 will be valuable.

12 THE PRESIDENT: Delegate Frank Robey.

13 DELEGATE FRANK ROBEY: I call your attention
14 to page 2 of the resolution, lines 28 and 29. Again,
15 following Delegate Burdette's questioning, this is for
16 the legislative history.

17 I am not sure that there isn't the need to add
18 an additional phrase in line 29. I call your attention to
19 that phrase which says "a post-convention Committee on
20 Public Information which shall formulate ideas and advise
21 with regard to an impartial public information program".

1 When will the Committee be appointed? Who
2 will they be advising? The President alone? Or the
3 post Convention staff or will they be advising the
4 delegates who were members of the Convention, or all of
5 these people?

6 DELEGATE DULANY: The Committee will be
7 advising all of these people. The Committee will be
8 conducting a program and will advise the staff that is
9 employed to conduct a public information program. I
10 think that each delegate is charged with the responsibility
11 of informing this State as well as the Official Committee.

12 I think the Committee will advise the delegates
13 here who are not members of the Committee, who are not
14 members of any Committee, but who are actually speaking
15 and endeavoring to inform their constituents of the
16 activities of this Convention.

17 I think this Committee will advise them. I
18 think the Committee will be a very important tool to the
19 president.

20 THE PRESIDENT: Delegate Robey.

21 DELEGATE ROBEY: For the sake of the legislative

1 history of this resolution, I think it should be pointed
2 out very specifically at this time that the Committee's
3 function will be solely one of advisory capacity. They
4 will not direct. Is this true?

5 DELEGATE DULANY: The Committee will formulate
6 and advise. We must have someone we can put the finger
7 on who is directing the program. The resolution provides
8 that the President shall, or in his absence or inability,
9 the vice president. The Committee will formulate and
10 advise with regard to the program.

11 THE PRESIDENT: Any further questions?

12 Delegate Grant.

13 DELEGATE GRANT: Delegate Dulany, it is my
14 understanding that the Constitutional Commission is also
15 still in existence, and I presume that any work that
16 your group would do and the Convention will do would be
17 coordinated and combined with whatever work they are still
18 working on?

19 DELEGATE DULANY: I think that will be true.
20 We will be working with the Commission. The legislature
21 and the two aspects of the post-convention activities, the

1 public information program and the aspect of winding up
2 the affairs of this Convention. I think it will all be
3 combined so you can't put your finger on one employee
4 doing one job. All these things are inter-related.

5 THE PRESIDENT: Delegate James.

6 DELEGATE JAMES: Mr. President, I don't
7 seem to have a copy of Resolution 26.

8 DELEGATE DULANY: Yes.

9 THE PRESIDENT: Will the pages please get a
10 copy of Resolution 26.

11 DELEGATE JAMES: I would like to know whether
12 this resolution would authorize the President to
13 possibly join with the General Assembly in conducting
14 necessary research. I believe you said that and I want
15 to make sure that that is correct.

16 DELEGATE DULANY: That is our intention. We
17 don't have it spelled out specifically. It was our
18 intention that the committee and the President would be
19 working in connection with the General Assembly. Certainly
20 the staff that would be appointed by this Convention or
21 by the President of this Convention would be working for

1 the staff of the legislature.

2 THE PRESIDENT: Any further discussion?

3 Are you ready for the question?

4 The Clerk will ring the quorum bell.

5 The question arises on the adoption of
6 Resolution No. 26. A vote Aye is a vote in favor of the
7 resolution. A vote No is a vote against.

8 Cast your votes.

9 Has every delegate voted?

10 Does any delegate desire to change his vote?

11 The Clerk will record the vote.

12 There being one hundred and one votes in the
13 affirmative and none in the negative, the resolution is
14 adopted.

15 The Chair now calls for action --

16 Delegate Willis.

17 DELEGATE WILLIS: Point of personal privilege,
18 Mr. President.

19 THE PRESIDENT: State your privilege.

20 DELEGATE WILLIS: In the balcony in the front
21 of the Chamber are thirty-six members of the senior class

1 of the Blair High School with their teachers, Mr. Ralph
2 Jordon and Mr. Walter Campbell. I would appreciate the
3 members of the Convention joining me in giving them
4 their usual hearty welcome.

5 (Applause)

6 THE PRESIDENT: Delegate Storm.

7 DELEGATE STORM: Point of personal privilege,
8 Mr. Chairman.

9 THE PRESIDENT: State the privilege.

10 DELEGATE STORM: You all have been so kind to
11 me when I have been grumpy, and to my wife when she was
12 here, and to my first born yesterday, I now invite your
13 attention to my youngest who is a **Fellow** at the University
14 of Maryland, a teacher who tutors and whose proud parents
15 feel will make a real contribution in the field of
16 education, especially for the disadvantaged. Will you, in
17 your customary warm manner, welcome Penny Storm in blue
18 to the right above the President's head?

19 (Applause)

20 THE PRESIDENT: Delegate Byrnes.

21 DELEGATE BYRNES: Point of **personal** privilege.

1 Mr. President.

2 THE PRESIDENT: State the privilege.

3 DELEGATE BYRNES: In the rear balcony we have
4 a living proof of the quality that can come from the
5 multi-member district, Mr. Tommy Mooney from the Third
6 District in Baltimore City in the House of Delegates. I
7 would like you all to welcome him.

8 (Applause)

9 THE PRESIDENT: Delegate Winslow.

10 DELEGATE WINSLOW: I should like to announce
11 the presence in the balcony of a delegation from the
12 Eastern Shore, and I announce it with great satisfaction
13 because one of the members in the group is a former
14 student of mine, one of my favorite students, Mrs. Charles
15 Potts, Mrs. Fred Thomas, Mrs. Howard, and the wife of
16 Delegate Adkins.

17 Will you please join me in welcoming them to
18 this Convention?

19 (Applause)

20 THE PRESIDENT: The Chair calls up Resolution
21 27 and recognizes Delegate Scanlan, Chairman of the

1 Committee on Rules, Credentials, and Convention Budget.

2 DELEGATE SCANLAN: Although your approval of
3 Resolution 26 takes care of one of the most important
4 Convention activities, I think in order to be absolutely
5 sure of the authority of the President to expend funds
6 on behalf of the Convention in winding up the post-
7 convention activities, that Resolution No. 27 really is
8 necessary. The resolution has been shown to and has been
9 approved by the Attorney General and would make it
10 perfectly clear that the President had the authority to
11 enter into contracts, including employment contracts, in
12 connection with the winding up of the post-convention
13 activities and while it is possible to interpret Resolution
14 No. 26 to go this far, in order to be perfectly clear and
15 since it has the approval of the Attorney General, and I
16 think it would mean that any expenditures entered into
17 and approved by the President in the post-convention
18 period would be approved by the Comptroller, and I
19 think it would be wise that you adopt it and I move that
20 you do.

21 THE PRESIDENT: Any questions of the Committee

1 Chairman?

2 Any discussion?

3 Are you ready for the question?

4 The Clerk will ring the quorum bell.

5 The question arises upon the adoption of
6 Resolution No. 27.

7 Delegate Burdette.

8 DELEGATE BURDETTE: Parliamentary inquiry. Is
9 it necessary for us to suspend the rules because of the
10 nominal layover matter?

11 THE PRESIDENT: It is not.

12 The question arises upon the adoption of
13 Resolution No. 27. A vote Aye is a vote in favor. A
14 vote No is a vote against.

15 Cast your votes.

16 Has every delegate voted?

17 Does any delegate desire to change his vote?

18 The Clerk will record the vote.

19 There being one hundred eighteen votes in the
20 affirmative and none in the negative, the motion is
21 carried and the resolution is adopted.

1 The Chair at this time proposes to recognize
2 Delegate Beatrice Miller on a matter of personal
3 privilege, a statement of great importance to this
4 Convention, and following the statement by Beatrice
5 Miller, the Chair intends to recognize in succession five
6 other delegates.

7 I request all delegates to remain in their
8 seats, to remain in the Chamber to give close attention
9 until after the six speakers have made their statements.

10 The Chair at that time will make a statement
11 which will indicate to you that the statements planned
12 have been concluded and if there are any other delegates
13 who desire to make further statements, it can be done at
14 that time.

15 The Chair recognizes Delegate Beatrice Miller.

16 DELEGATE BEATRICE MILLER: Mr. Chairman and
17 fellow delegates, I rise with considerable trepidation to
18 explain briefly why the proponents will not request
19 further consideration of Section 1.17 on collective
20 bargaining.

21 I stated the other day that we would seek a

1 compromise. Since then I have found out that the compromise
2 was impossible. We had pared that statement in 1.17 down
3 to a fundamental right which could not be further
4 compromised without injuring the rights of half a million
5 organized workers who now enjoy collective bargaining.

6 I had sought to allay the fears of those half
7 million workers and the other half million of unorganized
8 workers, the great block of people, one million whose
9 vote and support is needed for this Constitution.

10 Despite the many good and wonderful things that
11 we have wrought here, these people express a real fear
12 that somehow this Constitution, like the Federal Consti-
13 tution, when it was first offered to the people, is
14 lacking in its protection of basic rights. I share their
15 fears, and I would like to explain.

16 I came to this Convention with only one real
17 conviction and that was that the State needed to be put
18 back into the business of government, that unless we
19 did that, we would have even more powerful federal and
20 local relationships and continued by-passing of the State.

21 Wherein had the State failed? Why had it been

1 by-passed? The answer was obvious. To the extent that
2 the state government failed to accept their new role in
3 the new philosophy of government, to that extent, they have
4 been ignored.

5 What was that new concept? Surely no one
6 can deny that since the 30's the federal government adopted
7 the concept that the economic and social welfare of all
8 of its citizens was that trust of government. To the
9 extent that local governments accepted that philosophy and
10 state governments rejected it, to that extent were state
11 governments by-passed.

12 This, fellow delegates, is the basic crisis
13 that we face -- not reform -- important as the reform is,
14 reform of the judiciary, reform of the executive, and
15 reform of the **legislative**, but the basic question is the
16 acceptance by the state of the philosophy of social and
17 economic responsibility for its citizens.

18 As I review this Constitution, I am concerned.
19 In this area we have failed and we have failed because of
20 the most ignominious reason of all: We failed not because
21 we did not recognize our responsibilities, not because

1 we rejected the philosophy, but we failed as delegates on
2 this floor ~~have admitted~~ because the business community
3 selfishly and short-sightedly threatened to scuttle this
4 Constitution and we responded to the pressure.

5 The honest conviction of eighty-three delegates
6 who supported on first reading 1.17 was then thwarted.
7 Unfortunately, most of what happened on this floor was
8 fully reported by the press and is no secret to the
9 one million workers in the State of Maryland. Some of
10 it was not reported, and I don't intend to wash that
11 dirty linen in public, but I want to go on. The morality,
12 the ethics, and the basic right, and the sheer need of this
13 provision for collective bargaining was admitted on this
14 floor. The right of these unprotected workers to organize
15 and bargain collectively was not questioned.

16 The argument was made that this is a matter of
17 legislation for the General Assembly to enact. Therefore,
18 it is my hope that in the next few months affirmative
19 action by the General Assembly will help erase that fear,
20 that bitterness, that frustration and disappointment. I
21 hope that such action will soon be forthcoming and before

1 May 14, and I would hope that all of those delegates
2 who supported the collective bargaining provision and
3 those others who claimed that it was statutory will
4 join in persuading the General Assembly to pass such
5 legislation.

6 If that should happen, then I think we could
7 look for further support and all go forward to win the
8 hearty ratification and endorsement by the people that this
9 Constitution deserves.

10 THE PRESIDENT: Delegate Harris.

11 DELEGATE HARRIS: Mr. President, ladies and
12 gentlemen of the Convention, it is with reluctance that
13 I rise to concur in the action taken by the delegates
14 who have supported the collective bargaining provision.
15 I believe that further consideration of this provision
16 would serve only to deepen the split that has occurred
17 in this Convention.

18 I would be remiss in my duties as a delegate
19 to the Convention, as a representative of the people of
20 the great State of Maryland, if I did not enlighten you
21 on some of the errors that we have committed by not

1 approving the collective bargaining provision.

2 Those delegates covered under collective
3 bargaining agreements are accruing all benefits they
4 normally receive at their work site. Since I am not
5 covered under a collective bargaining agreement, my
6 pension has been stopped.

7 You in your wisdom and deliberations have made
8 provisions for the judges and their widows' pensions. Is
9 this a constitutional matter? Not any more than my
10 pension which would have still been in effect if you would
11 have passed a collective bargaining proposal to cover all
12 public employees.

13 The public employees whom you have seen fit to
14 deny the constitutional right to organize and bargain
15 collectively for their economic security are part of the
16 public that you surmise will strike against you. These
17 people have not asked for castles or ready-made fortunes,
18 only the right to organize and elect spokesmen who will
19 then negotiate salaries and working conditions with the
20 proper officials in the government.

21 As an employee of the City of Baltimore for

1 twelve years, I have seen many people chastised for
2 wanting to belong to a union, and I know fire fighters
3 in the City of Baltimore who on a given morning would
4 report to a work station in Curtis Bay only to be trans-
5 ferred to another station at Edmonds Village, a punish-
6 ment for their union activities.

7 At Baltimore in the Fire Department, the
8 employees are rated by an efficiency rating. The top
9 rating is 81. If you make a choice to support the
10 union which I did, you will never make it. After twelve
11 years I have not, but I can show you many with five years
12 of service and no union activities who have already
13 reached 81. I want the record to be abundantly clear that
14 I personally admire those people who have the courage of
15 their convictions and that I will have to do an awful
16 lot of soul-searching, between about now and next
17 Wednesday, before I can affix my signature to a document
18 patterned primarily for the business interests of the
19 Bar Association and their widows.

1 THE PRESIDENT: Delegate Frank Robey.

2 DELEGATE ROBEY: Mr. President and Ladies and
3 Gentlemen, I too must confess that there are several parts
4 of this question which I, at the present time, do not
5 understand, and I am sure probably that I shall never
6 understand.

7 One of the things I shall never understand is the
8 switch in vote from eighty-three for, to a negative vote,
9 to a tie against.

10 There are parts of this Constitution of which I
11 do not at the present time approve, but I am not sure that
12 I shall never approve of them.

13 One of the most notable characteristics of our
14 way of life in Maryland is a continued exploration to
15 apply our principles of freedom to the challenges in the
16 new era.

17 I think this should be a test of a State Consti-
18 tution. Our institutions of freedom have be and are
19 preserved through a process of continuing development and
20 perfection.

21 There has existed throughout this Convention

1 a constant awareness of the changing realities of our
2 everyday life and at the same time a recognition of our
3 obligation to protect and maintain our tradition of demo-
4 cracy.

5 I submit, at this time, that collective bargain-
6 ing for the citizens of this State has evolved as a partisan
7 part of public policy. Collective bargaining is a part of
8 our heritage. Our challenge in this Convention was to
9 perfect it. Constitutional recognition in this area should
10 have been evaluated on the basis of implementing, not
11 restricting, collective bargaining, but I am afraid that
12 the delegates in this Convention have thought otherwise.

13 I have mixed emotions about this question because
14 I am a member of a teachers' union, but I am also at the
15 same time a member of a teacher's professional association.

16 This auditing of my membership grows out of the
17 peculiar circumstances that we have in the teaching pro-
18 fession in Baltimore City. I think the collective bargain-
19 ing phrase in the Constitution would have been of great
20 assistance to teachers throughout the State for when I
21 started teaching as a teacher in Baltimore City, my salary

1 was so low that in that first year of my teaching experience
2 I had to stay with my parents because I could not afford
3 otherwise.

4 Collective bargaining would perhaps have improved
5 the teaching situation in Baltimore City much sooner than
6 it has been. So I have mixed emotions about this situation
7 we now face in the Convention, but I hope you understand
8 the strong feelings that the proponents of the collective
9 bargaining measure have and the great step they are taking
10 today to help save this Constitution.

11 I am not sure at this time that what we have
12 gained is not a Pyrrhic victory, but that will only be
13 brought to bear come May 14.

14 As a history teacher I find some self satisfaction
15 and some answers by searching in history and I am sure that
16 Benjamin Franklin on the last day of the Federal Convention
17 of 1787 must have had to do a lot of soul searching on that
18 occasion.

19 I find some assistance in his words and so I
20 would like to close with a portion of the address Benjamin
21 Franklin had written but was too old and feeble to deliver

1 on the last day of the Federal Convention of 1787 in
2 September.

3 "Thus I consent, sir, to this Constitution
4 because I expect no better and because I am not sure it
5 is not the best. The opinions I have had of its errors I
6 have sacrificed to the public good. I have never whispered
7 a syllable of them abroad. Within these walls they were
8 born and here they shall stay. If every one of us in return-
9 ing to our constituents were to report the objections he
10 has had to it and endeavor to gain partisans in support of
11 them, we might prevent its being generally received and
12 thereby lose all the salutary effects and great advantages
13 resulting naturally in our favor among foreign nations as
14 well as among ourselves from a real or apparent unanimity.
15 Much of the strength and efficiency of any government in
16 procuring and securing happiness to the people depends upon
17 opinion, upon the general opinion of the goodness of
18 government as well as the wisdom and integrity of its
19 governors. I hope, therefore, that for our own sakes as
20 a part of the people and for the sake of prosperity we shall
21 act heartily and unanimously in recommending this

1 Constitution, Wherever our influence may extend and turn
2 our future thoughts and endeavors to the means of having
3 it well administered. "

4 "On the whole, sir, I cannot help expressing
5 the wish at this time that every member of the Convention
6 that may still have objections to it would with me on this
7 occasion doubt a little of our own infallibility and to
8 make manifest our unanimity and when the time comes put
9 his name on this instrument. Thank you.

10 THE PRESIDENT: Delegate Bothe.

11 DELEGATE BOTHE: Mr. President and Fellow
12 Delegates, I rise briefly now as I did just a few weeks ago
13 at great length to join with other proponents of what could
14 have been and should be the most fundamental new provision
15 in the new Maryland Constitution which we could have added
16 but which divisiveness from outside of this Body has taken
17 from the Constitution.

18 My personal concern with the inclusion of this
19 provision arises out of the my deep concern for the Con-
20 stitution itself. I have been a member of the Constitutional
21 Convention Committee and for the past three years I have been

1 deeply devoted to the idea of constitutional revision in
2 the State which is very badly needed and which we have
3 provided through the work of this Convention with one other
4 exception I wholeheartedly support all that we have done
5 and I feel that we are going to give the people of
6 Maryland a vast improvement in their fundamental document
7 and in the workings of the government.

8 For that reason, I concur in the feelings of
9 others that we cannot carry this matter any further and
10 I hope that all of us can go out and support this Constitu-
11 tion and support this concept which has, I think, persuasively
12 carried this Convention even though the document will not
13 contain the words.

14 Perhaps when the next constitutional convention
15 is held, it will no longer be necessary to think in terms of
16 providing people the right to bargain and organize, perhaps
17 it will be an antiquated a concept as the abolition of
18 slavery is to us today when a hundred years ago it must have
19 been a burning issue of the Convention.

20 For those reasons, I ask you to support the
21 principle and leave out the word and to support the

1 Constitution which I hope we all will do and perhaps even
2 in the next few months the Legislature will see fit to do
3 that which we have not seen fit to write in the basic
4 words of the Constitution itself.

5 Thank you.

6 THE PRESIDENT: Delegate Mitchell.

7 DELEGATE MITCHELL: Mr. President and Fellow
8 Delegates, I rise to pay tribute to the principles upon
9 which the Convention was founded and to the quality and
10 character of the delegates who were elected from across the
11 State to this Convention which vindicated the kind of
12 elections which were held. We were supposed to be elected
13 on a non-partisan basis with the interest of welding here
14 the kind of principles, ~~basic~~ principles, into a new
15 Constitution which would move this State forward.

16 I have turned the half century, so I have lived
17 a little longer. I am an old warrior against injustice,
18 but what has sustained me in my long struggle as a human
19 being for justice has been my faith in the Constitution and
20 the kind of government that we have in this country.
21 Sometimes our young people will become very impatient, but

1 I am happy to say that the faith of my ancestors and my
2 contemporaries in the kind of government that we have in
3 this country and the principles on which this government
4 was founded has been vindicated again and again.

5 That is not always enough to sustain our young
6 people as we point to the fact that man once he sees the
7 problem and understands, responds, but I have been heartened
8 in this Convention as I have seen ^{how} our delegates, many
9 coming from various areas of life who had no understanding
10 of some of the problems, have responded to the basic needs
11 and the principles here and I commend that and I say that
12 in the remaining years that I have for public service it
13 has been an enriching and heartening experience.

14 I want to say that I saw the faith that I have,
15 I have faith in the goodness of man. I think that is what
16 our founding fathers had, but they set up a Constitution
17 and a government to protect man against himself and his
18 weaknesses and that is what this Constitution does. It
19 protects man against his own inhumanity to himself.

20 Certainly the whole area represented by this
21 principle of collective bargaining is a very vital one to our

1 domestic peace in this State and in this nation, as well as
2 the problem of peace abroad.

3 I can only say to the representatives of the
4 business community who rendered such a disservice to the
5 principles upon which the Convention was founded and who
6 violated the will of the Convention by the organized cam-
7 paign to thwart that will once it had been expressed
8 that I hope they will learn from history and I say this
9 factually because in time after time when we have come down
10 to the Legislature for legislation to eliminate injustices,
11 the business community has been on the opposite side
12 opposing, but now in communities where they are seeing
13 what these practices have done and there is an old saying
14 you can't keep an old fellow in a ditch without staying
15 there to keep him down. The business community has come
16 to us in Baltimore City through the urban coalition asking
17 us to help them rebuild the inner cities because the
18 practices which they have fostered have caused the great
19 deterioration and loss.

20 I only hope and only wish that more of them
21 could have been at this Convention because I think they would

1 have responded and been as moved to do the fair and just
2 thing as our delegates here and I want to pay tribute to
3 the delegates here who have represented business interests
4 who have voted, when the Convention first considered this
5 problem and after fair debate, voted with us on this matter.

6 I, too, want to say that we have done a number
7 of good things here and I think that the Constitution which
8 we have evolved is too important to not take the leadership
9 in getting it adopted and so I hope that business will be
10 on our side in the Legislature since they say it is a
11 statutory matter to correct the injustices which now
12 abound in the economic field.

13 THE PRESIDENT: Delegate Sickles.

14 DELEGATE SICKLES: Mr. President and Fellow
15 Delegates: I rise first to congratulate the two ladies,
16 Mrs. Miller and Mrs. Bothe, for their wisdom in taking the
17 course of action which they have selected for today and
18 also to thank all of you for your patience in listening
19 to those of us who feel so strongly on this one issue that
20 we requested time to address you for just a few moments.

21 I must admit to great disappointment in the

1 fact that we have not ended this great Convention with a
2 recognition of what I considered to be a basic right. I
3 must admit that early in the deliberations of the Convention
4 I had my misgivings as to whether there would be success,
5 but I must admit also that I was heartened by at least one
6 vote in the process.

7 I try never to fault anyone for what they do
8 and what they say and how they act, and I want to say some-
9 thing as the President says and I am going to try to choose
10 my words very well because I don't want to trespass on the
11 good graces of you and those about us who have tried to
12 influence our will.

13 I want to speak first with respect to the busi-
14 ness community in this State. As you know, I as well as
15 most of you here I am sure have my sight set on matters
16 much broader than the boundaries of this State, and there
17 are many problems facing this nation and to its credit the
18 national business community has begun to shake its head and
19 has begun to understand and has begun to take a very
20 positive step, many steps in the direction of understanding
21 what causes crime in the streets and what causes poverty,

1 and what are the direct results of these social ills that
2 we have in our nation and I would suggest to the business
3 community in this State that it can no longer afford to sit
4 idly by and be influenced by those few among it who are
5 so motivated that they would try to lead them further down
6 a path which has been unsuccessful.

7 I tell you as I stand here that there is a
8 collision course now between public employees and public
9 officials. There is a collision course between those
10 employees of charitable organizations and their boards and
11 you already see the symptoms of some of these things. You
12 have read about and maybe have witnessed the strikes of
13 State employees and city employees, the transit strike in
14 New York City, the teachers' strike up in Connecticut, and
15 to those who would suggest that the way we are going to
16 solve these problems is to keep these employees from
17 organizaing in the first place, I say to them you have not
18 studied the problem. You don't understand the society in
19 which we live. You do not understand the temper of the times
20 and what is going on in the minds of people because these
21 problems will not be settled that way. They will

1 be settled with a much more mature approach to the
2 problem and I had hoped, and I am disappointed, but most
3 of all I am disappointed in myself that I could not convey
4 to you here in this Assembly what I felt the basic problem
5 was and could not convince you of the seriousness of this
6 problem and the need to establish that one basic right
7 which is at the heart of its solution, but I have failed.
8 I hope that those of you who have said to me that I do
9 believe that there is a problem and that you do believe
10 that government must participate in it, but that it should
11 not be done in this Assembly, but it should be done later in
12 the month when the General Assembly arrives here that you
13 will join with me and others and try to translate to the
14 legislators what they can do in this area and I hope that
15 the business community will join with us in this task and
16 I hope that the educators in this State will begin to take
17 their true role in helping us solve the problems of
18 tomorrow. We all need wisdom and we all need vision and
19 we all need help.

20 Yes, I am disappointed, but you know I wouldn't
21 have the wisdom and I wouldn't have the vision that I

1 complain others do not have if I were to then take my
2 disappointment out in the form of not supporting this
3 document because I am proud of what we have done. I
4 believe that we will have the model judiciary system in the
5 nation as a result of what is printed on these brown papers
6 before us now. I believe that we have taken giant steps
7 toward establishing a strong executive in our State govern-
8 ment which is much needed to solve the same problems to
9 which I alluded earlier, and I believe that perhaps the
10 most significant thing that we have done to prepare for
11 tomorrow has been the establishment of single member
12 districts for our State Legislature so that I can find much
13 in this document that makes me pleased.

14 Now, I know not what the labor leaders, those
15 that would try to guide the working men of this State will
16 do. I have been in their company for the past few days,
17 but I tell you what I shall tell them. I shall tell them
18 there is much good in this document for you because what
19 is good for all the citizens is good for the employees too,
20 and you shall profit and you shall benefit and I hope that
21 they will have the wisdom and that they will have the vision

1 and although we share their disappointment, that they
2 will rise to the occasion too and support with us the
3 document that we have produced.

4 THE PRESIDENT: These six speakers are the
5 speakers who had advised the Chair they desired to speak.

6 The Chair has received a request from Delegate
7 Kiefer that he make a brief statement. The Chair will
8 recognize him and after that the Chair would like to make
9 a statement.

10 Delegate Kiefer.

11 DELEGATE KIEFER: Mr. President and Ladies and
12 Gentlemen of the Convention: I didn't come to make a
13 speech today. In fact, if I had known the gracious
14 attitude of the people who have just spoken I would perhaps
15 have slept more easily last night.

16 Nevertheless, I should make this statement as
17 Chairman of the Personal Rights and Preamble Committee
18 because this is where all of this started.

19 This Committee, and you met them all before, and
20 may I ask will those members of the Committee please stand
21 just briefly so people can see who you are? Please stand

1 just a moment. (Applause)

2 You will see that they represent all walks of
3 life. There are wealthy people in this group. They are
4 from the inner city and from the broader and more favorable
5 countryside. We found, Ladies and Gentlemen, we started
6 out with what we thought were many differences. As we
7 debated and we talked we found we had fewer and fewer
8 differences in basic philosophy. After all, we have the
9 same love for our children and the same love for our grand-
10 children and for the people with whom we work and with whom
11 we live.

12 Ladies and Gentlemen, this is just not an idle
13 question. There are many things we have been divided upon,
14 but this Committee managed after serious debate and
15 discussion to come up with what it thought were proper
16 answers.

17 I call your attention to one thing that was
18 overlooked by this group, but which I believe more basicly
19 sounds the philosophy that many of these people are talking
20 about and which this Committee advocated. That is Section
21 No. 9 of its Recommendation No. 2, "It shall be the policy

1 of this State that all", and I underline "all", "persons
2 shall have economic security, the opportunity for employ-
3 ment, and the means to provide for themselves and their
4 families a standard of ~~living~~ based upon decency, dignity,
5 and health."

6 I believe we have done a good job. I think we
7 have something that this Convention and this State will be
8 proud of, but I want to close only with one expression
9 which this Committee developed after hard work and which
10 as far as I can see this Convention adopted almost unani-
11 mously.

12 Let me read to you the banner on which we shall
13 go forward together, the preamble. It has meaning.

14 "We, the people of the State of Maryland, grate-
15 ful to Almighty God for our civil and religious freedom,
16 recognizing that all political power originates in the
17 people and that all government is instituted to secure their
18 right to life, liberty, and the pursuit of happiness, and
19 acknowledging our duty and responsibility to posterity,
20 do establish and ordain this Constitution."

21 Let us all go forward together and do exactly

1 that. (Applause.)

2 THE PRESIDENT: On several occasions from this
3 rostrum I have stated that I am very, very proud of this
4 Convention and every delegate in it.

5 On many more occasions, off of this rostrum and
6 away from this State House, I have made the same statement
7 in greater detail and with much more emphasis.

8 All of us on September 12, 1967, entered upon a
9 new experience regardless of whether we had previous
10 legislative experience, because we were embarking upon the
11 drafting of a Constitution for the State of Maryland, not
12 in the eighteenth or nineteenth century but in the twentieth
13 century. We had no guidelines. We had no clear course
14 marked out for us. We had only the good will, the abilities,
15 and the intense desire of every delegate to work to his
16 utmost to achieve the same end.

17 In the course of these past four months during
18 which it has been my honor to be president, I have as you
19 know talked privately on numerous occasions with many
20 delegates when issues appeared to develop that were divisive,
21 that could create factions and destroy the fellowship that

1 had grown up about us.

2 We succeeded in every instance in weathering
3 the gail with results, compromises if you will, but results
4 that if they were not completely satisfactory to all delegates
5 were certainly not unsatisfactory.

6 It was very unfortunate that as we neared the end
7 of our labors there developed a severe division over this
8 one issue and as I am sure all of you know, the most
9 intense efforts were made in the past few weeks to arrive
10 in this instance also at a solution which if not completely
11 satisfactory to everyone was at least not unsatisfactory.

12 This has not been achieved. However, I am struck
13 by two things which have been driven upon me with increasing
14 force in the past fifteen days. One is the complete and
15 utter sincerity of delegates to each side of this question
16 in the justness, the rightness, and the correctness of their
17 own position.

18 And the other was the complete sincerity and
19 dedication of both sides in this dispute to do nothing that
20 would jeopardize the work of this Convention and their
21 feeling that in persisting in their efforts it was necessary

1 to save the product of this Convention.

2 It became obvious to me that these differences
3 in philosophy were not a mere matter of words, but were a
4 matter of great feeling, intense feeling, but complete
5 sincerity.

6 I wish it had been possible that the debates on
7 this issue could have been avoided. At the same time I
8 think they have done a tremendous amount of good because
9 the people will know what the issue is, the people will
10 know what the debates have been because all of the discussion
11 has taken place in the open on this very floor in the full
12 light of not only the press but public visitors in the
13 galleries.

14 It has become entirely clear and beyond question
15 that practically every delegate supports the general
16 principle underlying the proposed Section 1.17 and that
17 delegates do not dispute the right of labor to organize
18 and to collectively bargain, but that the division occurred
19 on the question of whether the regulation not only of the
20 right to bargain but of the right not to bargain collectively
21 should be worked out in convention or in the legislative

1 halls.

2 We are able to go forward today and tomorrow
3 and conclude our business and draft a Constitution of
4 which I am sure the State of Maryland will be proud.

5 I am sorry that I personally was not able, I
6 did not have the capacity, the wisdom to be able to work out
7 a solution, but I have never been more proud of this
8 Convention than I am at the moment and I applaud the
9 efforts of all the delegates to enable us to go forward
10 at this time.

11 (The Convention rose and applauded.)

12 **THE PRESIDENT:** Mr. Clerk, you have Resolution
13 No. 28.

14 Mr. Clerk, will you please read the resolution?

15 **MR. QUILLEN:** Resolution No. 28 by Committee on
16 Style, Drafting and Arrangement, a resolution concerning
17 capitalization of words in the proposed new Constitution.

18 "A RESOLUTION concerning capitalization of words
19 in the proposed new Constitution.

20 "WHEREAS, the Committee on Style, Drafting and
21 Arrangement deems it desirable and appropriate that a

1 uniform system of capitalization be used throughout the
2 text of the proposed new Constitution; and

3 "WHEREAS, the Committee on Style, Drafting and
4 Arrangement suggests to the Convention the following rules
5 of capitalization; now therefore be it

6 "RESOLVED, By the Constitutional Convention of
7 Maryland that:

8 "1) when the names of institutions are used
9 as nouns they shall be capitalized;

10 "2) when the word "State" is used as a noun
11 it shall be capitalized;

12 "3) when officers of the State are referred
13 to they shall not be capitalized;

14 "4) when the words "Maryland", "United States",
15 "Constitution" are used they shall be
16 capitalized; and

17 "5) when any reference to the deity is made
18 it shall be capitalized; and be it further

19 "RESOLVED, that the Committee on Style, Drafting
20 and Arrangement be instructed to follow these rules in its
21 preparation of the final draft of the Constitution."

1 THE PRESIDENT: The Chair would like to act on
2 Resolution No. 28 at this time. It calls on Delegate
3 Penniman, Chairman of the Committee.

4 DELEGATE PENNIMAN: This is simply to change
5 what had been originally a policy to capitalize some of the
6 offices and in the last few days it became clear that it
7 would be simpler both here and in the transitory provisions
8 to maintain a policy of lower case for all except the
9 offices or institutions of the State, the deity, the State
10 itself, and return all the others in lower case.

11 This will save us the problem of bringing it up
12 in instance after instance noting we have reduced this
13 capital letter to a lower case if we can get this accepted.

14 THE PRESIDENT: Any questions of the Committee
15 Chairman?

16 Are you ready for the question?

17 The question arises on the adoption of Resolution
18 No. 28.

19 A vote Aye is a vote in favor of the resolution;
20 a vote No is a vote against.

21 Cast your vote.

1 Has every delegate voted?

2 Does any delegate desire to change his vote?

3 The Clerk will record the vote.

4 There being 102 votes in the affirmative and
5 none in the negative, the motion is carried and the resolu-
6 tion is adopted.

7 Resolution No. 29. The Clerk will read the
8 resolution.

9 MR. QUILLEN: Resolution No. 29 by Delegate
10 Scanlan.

11 "A RESOLUTION to amend Rule 59 of the Standing
12 Rules.

13 "WHEREAS Rule 59 of the Standing Rules now
14 provides: 'On the final passage of every proposal, section,
15 article and of any complete revision of or amendment to
16 the Constitution, the vote shall be taken by ayes and nays
17 and entered on the Journal and no proposal, section,
18 article, or any such amendment or complete revision, shall
19 be declared finally passed unless a majority of all the
20 delegates to the Convention shall have voted in favor of
21 the passage of the same.' and

1 "WHEREAS the Attorney General of Maryland has
2 ruled that Section 13 of the Enabling Act, under which
3 this Convention was convened, requires only that each
4 "article or division" of a proposed Constitution be
5 approved by the affirmative vote of a majority of the
6 Delegates to the Convention, be it

7 "RESOLVED BY THE CONSTITUTIONAL CONVENTION OF
8 MARYLAND: That Rule 59 of the Standing Rules is hereby
9 amended by striking out "section" wherever the same appears,
10 and inserting in lieu thereof in each instance "or", so
11 that the rule as amended shall read as follows:

12 "Rule 59. Majority Vote on Proposals.

13 On the final passage of every proposal or article and of
14 any complete revision of or amendment to the Constitution,
15 the vote shall be taken by ayes and nays and entered on the
16 Journal and no proposal or article, or any such amendment
17 or complete revision, shall be declared finally passed unless
18 a majority of all the delegates to the Convention shall have
19 voted in favor of the passage of the same."

20 THE PRESIDENT: The Chair will not refer the
21 resolution to a Committee at this time. It intends to

1 recognize Delegate Scanlan to move suspension of rules to
2 permit immediate consideration, but will not do so until
3 after the resolution is printed and on your desk.

4 The Parliamentarian reminds the Chair that
5 under the rules the resolution should be referred to the
6 Committee on Rules, Credentials and Convention Budget, and
7 the resolution will be referred to that Committee, but
8 the Chair will recognize Delegate Scanlan as soon as the
9 printed copy is available to move suspension of rules to
10 permit immediate consideration.

11 I think we should probably go into a Committee
12 of the Whole to conclude consideration of GP-13.

13 The Chair recognizes Delegate Borom, Vice-
14 President of the Committee on Calendar and Agenda.

15 DELEGATE BOROM: Mr. President, I move that the
16 Convention resolve itself into a Committee of the Whole
17 for the purpose of considering the general orders of hhe
18 day.

19 THE PRESIDENT: Is there a second?

20 (The motion was seconded.)

21 THE PRESIDENT: All in favor, signify by saying

1 Aye; contrary, no.

2 The Ayes have it, and it is so ordered.

3 (The mace was removed by the Sergeant at Arms.)

4 (Whereupon, at 2:50 o'clock p.m., the Convention
5 resolved itself into the Committee of the Whole.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

1 THE CHAIRMAN: The members of the Committee on
2 Style are excused from a meeting of the Committee of the
3 Whole in order to continue a meeting of that Committee.

4 Is your meeting immediately, Delegate Penniman?

5 DELEGATE PENNIMAN: Yes, the meeting will be
6 immediately.

7 THE CHAIRMAN: The Committee of the Whole has
8 under consideration Section 30 of the Schedule of Transi-
9 tional Provisions and Sections 21, 22, and 23 of the
10 Schedule of Legislation contained in Committee Recommenda-
11 tion GP-13. Consideration of these sections was deferred
12 yesterday in order to permit certain memoranda and amendments
13 to be prepared. I think it will be clearer if we
14 distribute both amendments, so will the pages please
15 distribute Amendments AD and AE, that is "Able David" and
16 "Able Easy."

17 The Amendment AD will be numbered 13. The
18 Amendment AE will be numbered 14.

19 The Clerk will read each amendment.

20 MR. QUILLEN: "Amendment No. 13 to Committee
21 Recommendation GP-13 by Delegates Fornos, Abramson, Boileau,

1 Byrnes, Carson, Gallagher, Gilchrist, Gill, Lord, Morgan,
2 Moser, Mudd, E. C. Murray, Powers, Rosenstock, J. H. Smith,
3 M. H. Smith, Willoner, Harkness, and Johnson.

4 "On page 10, Section 30, Judicial Compensation,
5 in line 13 after the word "Except" add the letter 'a';
6 and following line 25 add the following:

7 ""(b) The initial salary to be paid by the
8 State to a judge of the Court of Appeals shall not be less
9 than the total salary, including any local supplementation,
10 paid on January 1, 1968, to the chief judge of the Court of
11 Appeals established under the prior constitution.

12 ""(c) The initial salary to be paid by the
13 State to a judge of the Intermediate Appellate Court shall
14 not be less than the total salary including any local
15 supplementation paid on January 1, 1968, to the chief judge
16 of the Court of Special Appeals.

17 ""(d) The initial salary to be paid by the
18 State to a judge of the Superior Court shall not be less
19 than the total salary including any local supplementation
20 paid on January 1, 1968, to the chief judge of the Supreme
21 Bench of Baltimore City.

1 "'(e) In establishing a uniform scale of
2 judicial salaries and pensions, including those for the
3 District Court, the General Assembly may disregard any local
4 supplementation or local salary or pension authorized after
5 January 1, 1968, and such action shall not be deemed to be
6 a diminution of a judge's salary or pension.'

7 "Amendment No. 14 to Committee Recommendation
8 GP-13 by Delegates Fornos, Abramson, Boileau, Byrnes, Carson,
9 Gallagher, Gilchrist, Gill, Harkness, Johnson, Lord, Morgan,
10 Moser, Mudd, E. C. Murray, Powers, Rosenstock, J. H. Smith,
11 M. H. Smith, and Willoner.

12 "On pages 21 and 22 strike out all of Section 21.
13 Judicial Salaries comprising lines 47, 48, 49 and 50 on page
14 21 and all of lines 1 through 33, inclusive, on page 22
15 and insert in lieu thereof the following:

16 "'Section 21. Vacant.';
17 "and on pages 22, 23 and 24 strike out all of lines 35
18 through 50, inclusive, on page 22, all of lines 1 through
19 33, inclusive, on page 23 and all of lines 1 through 17,
20 inclusive, on page 24 and insert in lieu thereof the
21 following:

1 "'Section 22. Judicial Pensions';
2 "and on page 24 in lines 19 and 32 respectively strike out
3 the following: '(1)' and '(2)' and insert in lieu thereof
4 respectively '(a)' and '(b)';
5 "and on pages 24 and 25 strike out all of lines 44 through
6 50, inclusive, on page 24 and line 1 on page 25 and insert
7 in lieu thereof the following: '(c)';
8 "and on page 25 strike out all of Section 23. Pensions of
9 Spouses of Judges comprising lines 13 through 44, inclusive,
10 and insert in lieu thereof the following:
11 "'Section 23. Vacant.'"
12 THE CHAIRMAN: We will consider first Amendment
13 13 offered by Delegate Fornos and seconded by the co-
14 sponsors. The Chair recognizes Delegate Fornos.
15 DELEGATE FORNOS: Mr. Chairman, could I
16 respectfully request a reversal on that?
17 THE CHAIRMAN: You want to offer them in reverse
18 order.
19 DELEGATE FORNOS: Yes.
20 THE CHAIRMAN: You can talk about them both.
21 DELEGATE FORNOS: It would be easier if we first

1 offered Amendment 14.

2 THE CHAIRMAN: Very well, we will pass over
3 Amendment 13 and consider Amendment 14 which is to Sections
4 21 and 22 of the Schedule of Legislation and Section 23.

5 Delegate Fornos.

6 DELEGATE FORNOS: Also, Mr. Chairman, I re-
7 spectfully request that the name of Judge Henderson be added
8 to the sponsors of these two amendments.

9 THE CHAIRMAN: The name of Delegate Henderson
10 is added as cosponsor on Amendment 13 and Amendment 14.

11 Delegate Fornos.

12 DELEGATE FORNOS: Mr. Chairman and fellow
13 delegates, I have the privilege of presenting two amendments
14 to the ~~Committee~~ on the Judiciary Sections of the
15 Transitional Provisions and on the Transitional Legislation.
16 I would like to acknowledge the very hard work of Delegates
17 Gilchrist, Gill, Lord, John Smith, Marvin Smith, and
18 Delegate Willoner in making these amendments possible as
19 well as the Committee Counsel, Bill Adkins.

20 The best way to describe what we aim to do, if
21 the delegates would turn to page 21 of the Transitional

1 Legislation Section and if we could strike out tentatively
2 what would be eliminated: On page 21 we would propose to
3 strike out all of line 47 through 50; on page 22, all of
4 page 22; on page 23, all of page 23; on page 24 we propose
5 to strike out subparagraph 2, lines 1 through 15, and sub-
6 paragraph 3, lines 44 through 50.

7 On page 25, we would propose to strike out all of
8 Section 23 starting at line 13 through 44.

9 There was one oversight in the drafting of
10 Amendment 14, and I would like to have unanimous consent,
11 Mr. Chairman, that on line 39 on page 24 the date "July
12 1" be changed to "January 1, 1968."

13 THE CHAIRMAN: This is not an amendment to the
14 amendment but an additional amendment to the section.

15 DELEGATE FORNAS: It was an oversight.

16 THE CHAIRMAN: But the reference is not to the
17 printed amendment.

18 DELEGATE FORNAS: This is to bring it in com-
19 pliance with line 13.

20 THE CHAIRMAN: You misunderstood me. Your
21 modification is not of the printed amendment?

1 DELEGATE FORNOS: That is correct. It is another
2 part of the first amendment. We have to add it to Amendment
3 14.

4 THE CHAIRMAN: What line of page 24?

5 DELEGATE FORNOS: 39.

6 THE CHAIRMAN: What do you want to do?

7 DELEGATE FORNOS: Put the word "January" in
8 place of "July."

9 THE CHAIRMAN: Is there any objection to modi-
10 fication of Amendment 14 by adding in line 20 of the
11 amendment after the semicolon the following and in line
12 39 change "July" to "January"?

13 If there is no objection, the modification is
14 made.

15 DELEGATE FORNOS: Mr. Chairman and fellow dele-
16 gates, what we hope to achieve by these two amendments can
17 best be outlined for you if we take and as I explain our
18 objectives and also study Amendment 13 which implements
19 our objective. By striking Section 21 of the Schedule of
20 Transitional Legislation, we are substituting Transitional
21 Provisions in Section 30 as follows: That the present

1 salary of the judges of the Court of Appeals can in no way
2 be decreased and will be maintained as the minimum on the
3 implementation of the new uniform judicial salaries system,
4 that the present salaries of the Court of Appeals will
5 remain as they are and will be maintained as the minimum in
6 the new Transitional Provisions. That under the Circuit
7 Courts, now the Superior Courts, the Superior Court
8 justices would be paid equally to what the highest Circuit
9 Court, or the Supreme Court justice in this case, and this
10 would be \$30,500.

11 We completely eliminated any reference to the
12 salaries of the District Court. The logic behind this is
13 that the District Court does not become implemented until
14 1970 and having established a uniform judicial salaries
15 system for the three higher courts of the State, we felt that
16 we did not go into the area of legislation and legislate
17 and leave it to the General Assembly to provide in this
18 area.

19 Furthermore, we have taken into consideration
20 that there may be some subdivisions of the State which under
21 existing laws might supplement judicial salaries in an

1 effort to gain higher salaries as a result of this new
2 Constitution. And to circumvent any such possibility, we
3 have added a sentence to Section 30 -- on ~~Amendment 13~~ it is
4 listed as subparagraph (e) -- which says, "In establishing
5 a uniform scale of judicial salaries and pensions, including
6 those for the District Court, the General Assembly may
7 disregard any local supplementation or local salary or
8 pension authorized after January 1, 1968," so in establish-
9 ing the uniform system it will have to be done in accordance
10 with the salaries in existence on January 1.

11 This primarily is what we hope to do in substi-
12 tution for Section 21 in the Transitional Legislation, and
13 that is all that we would propose to do with Section 21, 22,
14 and 23.

15 Section 22 deals with judicial pensions and 23
16 deals with the pensions of spouses.

17 We took cognizance of the fact that Section 10.01
18 of the General Provisions Article which we have passed says
19 that all existing statutory law in existence when this new
20 Constitution is promulgated, that statutory law will re-
21 main in effect and therefore the judicial pension system in

1 operation and also the spouse provision of beneficiaries
2 which is presently covered by statute would also remain in
3 effect.

4 We retained in the new Section 22 three necessary
5 pension clauses and now under the Amendment 14 they would be
6 numbered (a), (b), and (c). You can find new paragraph (a)
7 on page 24 and it is presently marked (e). This para-
8 graph deals with the partial service of any judge on more
9 than one court in any given year.

10 These are primarily longevity clauses giving
11 recognition to judges rendering service on various courts
12 and they have only the purpose of saying that longevity of
13 service will be recognized.

1 The next paragraph has to do with judges that
2 serve on more than one court.

3 Paragraph 2 has to do with a full year's ser-
4 vice on more than one court, and that they be given full
5 credit for their full year's service.

6 On page 25, paragraph (c) is a necessary pro-
7 vision to guarantee that those judges who will be elimi-
8 nated or not continued in office as a result of the new
9 Constitution will be entitled to all benefits accruing
10 to them under the present Constitution.

11 Mr. Chairman and fellow delegates, that, very
12 briefly, insures us of the necessary compliance with sec-
13 tion 5.25 of the Judicial Article, that we will have a
14 uniform judicial salary system, and furthermore, gives
15 the opportunity to the General Assembly of Maryland
16 to to legislate in an area which is rightfully theirs,
17 and at the same time maintains the principle which we have
18 promulgated here at this Convention.

19 THE CHAIRMAN: Any questions of the sponsor of
20 the amendment?

21 Any discussion?

1 Delegate Hardwicke, do you have any comment?

2 DELEGATE HARDWICKE: I would like to say,
3 Mr. Chairman, that from the point of view of the transi-
4 tional provisions I have carefully analyzed both Amendments
5 13 and 14. I think they are in order. I think the approach
6 is probably an improvement over the approach we have pre-
7 viously suggested of putting in dollar amounts. It accomp-
8 lishes the result of not having us legislate in a very
9 detailed and technical area, and I would urge that you
10 adopt these amendments.

11 THE CHAIRMAN: Any further discussion?

12 The clerk will ring the quorum bell.

13 The question arises on the adoption of Amend-
14 ment No. 14. A vote Aye is a vote in favor of the amend-
15 ment. A vote No is a vote against.

16 Cast your votes.

17 Has every delegate voted? Does any delegate
18 desire to change his vote?

19 The clerk will record the vote.

20 There being 82 votes in the affirmative and 5
21 in the negative, the motion is carried and the amendment is

1 adopted.

2 The Chair recognizes Delegate Fornos to speak
3 to Amendment 13.

4 DELEGATE FORNOS: Mr. Chairman and fellow Dele-
5 gates. I think the voting on the passage of Amendment 14
6 was conditional upon also the passage of Amendment 13.
7 It is in compliance with my explanation with you
8 here this afternoon, and I would urge its passage.

9 THE CHAIRMAN: Are you ready for the question?
10 The clerk will ring the quorum bell.

11 The question arises on the adoption of Amendment
12 13. A vote Aye is a vote in favor of the amendment. A
13 vote No is a vote against.

14 Cast your votes.

15 Has every delegate voted? Does any delegate
16 desire to change his vote?

17 The Clerk will record the vote.

18 There being 84 votes in the affirmative and 2
19 in the negative, the motion is carried and the amendment
20 is adopted.

21 Are there any further amendments with respect

1 to the Schedule of Transitional Provisions?

2 Delegate Cardin.

3 DELEGATE CARDIN: Mr. Chairman, I have no amend-
4 ment to offer. However, I wish to clarify something I
5 questioned yesterday in the informal questioning period.

6 In section 24, page 26, line 4, line 12, and
7 line 15, the terminology "spouse" is used.

8 In line 4 it is used "the spouse". In 12 and
9 15 it is "his spouse". I would like to make certain
10 for the record that in the event the judge is of feminine
11 gender it would also mean "her spouse".

12 THE CHAIRMAN: Which page is this?

13 DELEGATE CARDIN: Page 26.

14 THE CHAIRMAN: Delegate Penniman is not here.
15 I hesitate to speak for the Committee on Style, but it
16 seems to me that there was a statement made earlier that
17 the pronoun "his" means his or hers, as appropriate.

18 Delegate Hardwicke, can you make a statement
19 about that?

20 DELEGATE HARDWICKE: It was our intention that
21 the phrase "his spouse" should embrace the

1 phrase " her spouse", and by that was meant to include
2 either gender.

3 THE CHAIRMAN: Delegate Cardin.

4 DELEGATE CARDIN: Thank you.

5 I hope that wherever in the Constitution the
6 masculine gender is used it will be considered to embrace
7 all genders. I refer especially to Article I.

8 THE CHAIRMAN: That is true as to legislation.
9 I doubt that Article I is applicable by its own force,
10 but I think the rule you have stated was stated by the
11 Chairman of the Committee on Style. It is certainly the
12 Chair's understanding as the proper application throughout
13 the Constitution.

14 Delegate Churchill Murray.

15 DELEGATE C. MURRAY: I have a letter from the
16 President of Zonta International Club objecting that
17 we have not included the female sex.

18 Am I not correct in telling her that wherever
19 the word "person" or, for that matter "him" is used, it is
20 intended to refer to both sexes?

21 THE CHAIRMAN: That is correct.

1 Are there any further amendments to --
2 Delegate Rybczynski.

3 DELEGATE RYBCZYNSKI: I would appreciate your
4 calling up Amendment Z, as in "zebra".

5 THE CHAIRMAN: Amendment Z. The pages will
6 please distribute it.

7 Delegate Koss.

8 DELEGATE KOSS: May I impose on the Convention,
9 only because there seems to be a hiatus, and following
10 Delegate Murray's remarks, tell about the letter I re-
11 ceived?

12 I can't resist a temptation to relate a story
13 which has always been one of my favorites.

14 In 1961 I was privileged to be a member of a
15 group that was invited to the White House to be greeted by
16 President Kennedy. He told us of the days when suffragettes
17 were picketing the White House for recognition of their
18 rights, and when the police came and the leader was hauled
19 off, her last words to the girls who were with her were:
20 "Don't worry, girls. Pray to the Lord. She will take
21 care of us." (Laughter.)

1 THE CHAIRMAN: This will be Amendment No. 15.
2 Delegate Harry Taylor.

3 DELEGATE H. TAYLOR: A point of personal
4 privilege, Mr. Chairman.

5 THE CHAIRMAN: State your privilege.

6 DELEGATE H. TAYLOR: Robert J. Martineau, our
7 Secretary, has been most efficient and most accommodating
8 to everybody in the Convention, and this is just an
9 example of how far this gentleman has gone to do
10 whatever any delegate has requested.

11 This is a note, and it is dated January 4, to
12 Mr. John W. White, Delegate:

13 "Sir:

14 "You ask if I could reverse the picture film to
15 show 135 black delegates and five white. Now, I ask you,
16 sir, wouldn't that have a negative effect on the Convention?
17 And you would have to change your name to Delegate Black.

18 "Secretary Robert J. Martineau." (Laughter.)

19 THE CHAIRMAN: The clerk will read the amendment,
20 Amendment No. 15.

21 MR. QUILLEN: Amendment No. 15 to Committee

1 Recommendation No. GP-13, by Delegate Rybczynski:

2 On page 21 following line 45 of Section 20.
3 Duties of Clerk of Superior Court in Baltimore City add
4 the following new section:

5 "Section 20A. Jurisdiction of Orphan's Courts

6 On January 1, 1971, the judicial powers and juris-
7 diction previously vested in the various Orphan's Courts in
8 the State shall be vested in and exercised only by the
9 Superior Court."

10 THE CHAIRMAN: The amendment is offered by Delegate
11 Rybczynski. Is there a second?

12 (Whereupon, the amendment was seconded.)

13 THE CHAIRMAN: The amendment having been seconded,
14 the Chair recognizes Delegate Rybczynski.

15 DELEGATE RYBCZYNSKI: Mr. Chairman, in question-
16 ing Delegate Hardwicke yesterday I found much to my
17 surprise that there was a gap as to what was to happen --

18 THE CHAIRMAN: Delegate Rybczynski, will you wait
19 just a second?

20 Will the clerk ring the quorum bell?

21 You may proceed.

1 DELEGATE RYBCZYNSKI: That the jurisdiction
2 and powers of the Orphan's Court were to be left to the
3 General Assembly as to placement in the future, contrary
4 to every other court now in existence; that is, that the
5 Court of Appeals would go to the new Court of Appeals and
6 right down the line, until we got there to the Orphan's
7 Court and found no provision.

8 Although there is a strong feeling within
9 the Convention that the General Assembly might very well
10 see to this in the future, I can't help but observe that
11 every lawyer I know would be very unhappy to wake up one
12 day to find that possibly all or part of the jurisdiction
13 now in the Orphan's Court would find itself residing in the
14 District Court.

15 This would prove, or could prove to be a very
16 unhappy situation.

17 On an informal poll of many of the lawyers in
18 this Convention I learned that practically everybody feels
19 that the discussions during the Judicial Article section
20 led us to believe that the work of the Orphan's Court would
21 in fact become part of the Superior Court, so that I know

1 of no reason why we shouldn't do this now. Why put it
2 off? Why leave this gap, this obvious gap in what we are
3 trying to do?

4 I strongly urge everyone to think about the
5 enormous size of many of the estates, the importance of
6 the work concerned in the Orphan's Court, and in the probate
7 work, and suggest to you that it just does not belong,
8 even by a remote possibility, in a district court, but
9 rather in a superior court.

10 I urge you to fill this gap by adopting section
11 20A so that the work now in the Orphan's Court will auto-
12 matically go to the Superior Court.

13 THE CHAIRMAN: Any questions of the sponsor of
14 the amendment?

15 The Chair hears none.

16 Delegate Hardwicke?

17 Delegate Della, do you have a question?

18 DELEGATE DELLA: Yes, I do.

19 THE CHAIRMAN: Delegate Rybczynski, do you yield
20 to a question?

21 DELEGATE DELLA: Wouldn't you have a conflict of

1 jurisdiction between the cities and the counties?

2 THE CHAIRMAN: Delegate Rybczynski.

3 DELEGATE RYBCZYNSKI: I don't believe so.

4 THE CHAIRMAN: Delegate Della.

5 DELEGATE DELLA: Wouldn't the District Courts
6 in the county supervise the work in the Orphan's Court
7 while the Superior Court in Baltimore City could take
8 over the duties of the Orphan's Court in Baltimore City?

9 THE CHAIRMAN: Delegate Rybczynski.

10 DELEGATE RYBCZYNSKI: No, sir.

11 I see what is bothering you, Senator Della.

12 The reference is merely to a previous section;
13 but what we are looking at here, section 20A, is a totally
14 new section covering all Orphan's Courts and all Superior
15 Courts of the future.

16 THE CHAIRMAN: Delegate Hardwicke.

17 DELEGATE HARDWICKE: Mr. Chairman and ladies
18 and gentlemen:

19 This Convention made a decision to permit the
20 legislature to determine the distribution of judicial
21 functions among the four tier courts. We determined that

1 that was a legislative function. This suggested amend-
2 ment would be contrary to our previous determination to let
3 the legislature make the decision as to what courts did
4 what. This amendment would have the purpose of forcing the
5 Orphan's Court functions into the Superior Court.

6 The legislature may very well decide to do that;
7 but we have made the decision not to try to interfere with
8 what the legislature does in this respect.

9 I therefore urge that you defeat this amendment,
10 bearing in mind that the legislature may act this way,
11 probably will; but it is not our purpose to force their
12 hand.

13 THE CHAIRMAN: Any further discussion?

14 Are you ready for the question?

15 The clerk will ring the quorum bell.

16 The question arises on the adoption of Amendment
17 No. 15. A vote Aye is a vote in favor of the amendment.
18 A vote No is a vote against.

19 Cast your vote.

20 Has every delegate voted? Does any delegate
21 desire to change his vote?

1 The Clerk will record the vote.

2 There being 26 votes in the affirmative and 68
3 in the negative, the motion is lost and the amendment is
4 rejected.

5 Delegate Chabot.

6 DELEGATE CHABOT: Mr. Chairman, I have risen
7 many times for many purposes, but this is the first
8 and only time I have risen on a point of personal privilege.

9 THE CHAIRMAN: State the privilege.

10 DELEGATE CHABOT: In the gallery facing the Chair
11 is my wife, Aleen; by now you must all appreciate her
12 patience and understanding. (Laughter and applause.)
13 You have endured me for four months, and she has endured
14 me for more than 16 years.

15 I ask the Convention to give her its warm and
16 friendly greetings. (Applause.)

17 THE CHAIRMAN: Delegate Hodge Smith.

18 DELEGATE H. SMITH: Personal privilege, Mr.
19 Chairman.

20 THE CHAIRMAN: State the privilege.

21 DELEGATE H. SMITH: In the balcony over the

1 Chairman's head is the editor of the Montgomery County
2 Sentinel, and an advocate of good government, Mr. Roger
3 Farquhar. I hope we will welcome him. (Applause.)

4 THE CHAIRMAN: Delegate James Clark.

5 DELEGATE CLARK: A point of personal privilege,
6 Mr. Chairman.

7 THE CHAIRMAN: State the privilege.

8 DELEGATE CLARK: Over in the corner here at
9 the press table is my sister-in-law, Mrs. Louise Hawkins,
10 who is also editor of the Maryland News. I hope we would
11 extend to her a warm welcome. (Applause.)

12 THE CHAIRMAN: Delegate Rush.

13 DELEGATE RUSH: Yesterday there was a letter
14 sent to our governor:

15 "Your Excellency:

16 "It has been brought to my attention that in the
17 entire history of the State of Maryland there has never
18 been appointed to the Supreme Bench level or the Appellate
19 Court level a judge of Polish name and descent, nor has
20 there been a similar appointment from the First District of
21 Baltimore City.

1 "I suggest that you have an excellent oppor-
2 tunity to correct this failure on the part of past Governors
3 of this great Free State by appointing a Pole from the First
4 District to the Supreme Bench of Baltimore City.

5 "My personal recommendation is Edward B. Rybcz-
6 ynski who has been my seat-mate here in the 1967 Constitu-
7 tional Convention of Maryland.

8 "Information I have received from my close, per-
9 sonal friends of Baltimore City is that he would fulfill
10 the office of Judge with dignity and honor.

11 "Hoping to hear from you on this matter, I am

12 "Respectfully yours,

13 "William Rush."

waving a newspaper,

14 And one of my bad eyed friends/ came over hurriedly.

15 He tells me: "Oh, my God, a Pole has been appointed
16 to the Supreme Bench; but he didn't see the "C" in front
17 of the "ole".

18 THE CHAIRMAN: The question arises on the ap-
19 proval of section 30 as amended of Transitional Provisions
20 and the adoption of sections 21, 22, and 23 of the
21 Schedule of Legislation, as amended,

1 of Committee Recommendation GP-13.

2 Are you ready for the question?

3 The clerk will ring the quorum bell.

4 The question arises on the approval of the Sched-
5 ule of Transitional Provisions as amended and Sections 21,
6 22 and 23 of the Schedule of Legislation as amended of GP-13.

7 A vote Aye is a vote in favor; a vote No is a
8 vote against.

9 Cast your votes.

10 Has every delegate voted? Does any delegate
11 desire to change his vote?

12 The clerk will record the vote.

13 There being 101 votes in the affirmative and
14 none in the negative, the motion is carried.

15 Section 30 as amended of the Schedule of
16 Transitional Provisions; Sections 21, 22 and 23 as amended
17 of the Schedule of Legislation as contained in Committee
18 Recommendation GP-13, are approved.

19 The Chair recognizes Delegate Borom.

20 DELEGATE BOROM: Mr. Chairman, I move that
21 the Committee of the Whole rise and report the adoption of

1 section 30 as amended of the Transitional Provisions, and
2 the adoption of Sections 21, 22 and 23 as amended of the
3 Schedule of Legislation of Committee Recommendation GP-13.

4 (The motion was seconded.)

5 THE CHAIRMAN: All in favor, please signify by
6 rising.

7 (The Convention rose and applauded.)

8 THE CHAIRMAN: All opposed, signify by rising.

9 The Ayes have it, and the motion is carried.

10 (Whereupon, at 3:40 p.m., the Committee of the
11 Whole rose, and the Convention resumed.)

12 (The mace was replaced by the Sergeant at Arms.)

13 THE PRESIDENT: The Convention will please
14 come to order.

15 The Chair reports on behalf of the Committee
16 of the Whole that it has had under consideration section 30
17 of the Schedule of Transitional Provisions, and Sections
18 21, 22 and 23 of the Schedule of Legislation of Committee
19 Recommendation GP-13; that it has approved section 30 with
20 amendments, and it has approved sections 21, 22 and 23 with
21 amendments.

1 The Chair would like to consider this report
2 of the Committee of the Whole at the present time and have
3 second readings of these sections.

4 First, the Chair recognizes Delegate Borom for
5 the purpose of moving for the suspension of the rules.

6 DELEGATE BOROM: May I speak on a point of
7 personal privilege, please?

8 THE PRESIDENT: You may.

9 DELEGATE BOROM: If we don't wait too long to
10 have the next Convention, I may be Chairman of the Committee.
11 (Laughter.)

12 THE PRESIDENT: Delegate Borom.

13 DELEGATE BOROM: Mr. President, I move that
14 the rules be suspended so that the remainder of Committee
15 Recommendation GP-13 may be considered on second reading.

16 THE PRESIDENT: That is a roll call vote.

17 All in favor, signify by voting Aye; opposed, No.
18 Cast your votes.

19 Has every delegate voted? Does any delegate de-
20 sire to change his vote?

21 The clerk will record the vote.

1 There being 98 votes in the affirmative and none
2 in the negative, the rules are suspended to permit immediate
3 consideration of section 30 of the Schedule of Transitional
4 Provisions and sections 21, 22 and 23 of the Schedule of
5 Legislation in GP-13.

6 Is there a second?

7 (Whereupon, the motion was seconded.)

8 THE PRESIDENT: The question arises on the
9 adoption of section 30 as amended of Transitional Provisions
10 and the adoption of sections 21, 22 and 23, all as contained
11 in GP-13.

12 A vote Aye is a vote in favor; a vote No is a
13 vote against.

14 Cast your votes.

15 Has every delegate voted? Does any delegate
16 desire to change his vote?

17 The clerk will record the vote.

18 There being 97 votes in the affirmative and 0 in
19 the negative, the motion is carried and section 30 as
20 amended of the Schedule of Transitional Provisions; and
21 sections 21, 22 and 23 of the Schedule of Legislation, all

1 as contained in Committee Recommendation GP-13 is adopted
2 on second reading.

3 The Chair now calls up Resolution 29 which has
4 been printed. Has it been distributed, Mrs. Marx?

5 Resolution 29, has it been distributed?

6 Delegate Barrick.

7 DELEGATE BARRICK: I am sure by now each one
8 of the Delegates knows Dean Wheeler from Hollins College.
9 He has been with us throughout the session, consistently.
10 He has been a great help to many of us individually and has
11 been a great help to the Convention as a whole.

12 We have a double pleasure today in that he has
13 with him in the gallery over your head his lovely wife,
14 Trudy, and I wish you would give them a warm welcome.

15 (Applause.)

16 THE PRESIDENT: The resolution has been read.
17 The Chair recognizes Delegate Scanlan.

18 DELEGATE SCANLAN: Mr. Chairman and fellow
19 delegates:

20 I would like to move for suspension of the
21 rules to consider Resolution No. 29, since it is a proposal

1 to amend Rule 29, it would ordinarily have to be referred
2 to the committee and lay over for two days. I request sus-
3 pension of this rule.

4 THE PRESIDENT: Is there a second?

5 (Whereupon, the motion was seconded.)

6 THE PRESIDENT: Is there any discussion?

7 Are you ready for the question?

8 This requires a roll call vote.

9 All in favor, vote Aye; opposed, No.

10 Cast your vote.

11 Has every delegate voted? Does any delegate
12 desire to change his vote?

13 The clerk will record the vote.

14 There being 91 votes in the affirmative and none
15 in the negative, the motion is carried and the rules are
16 suspended.

17 The Chair recognizes Delegate Scanlan to speak
18 to Resolution 29.

19 DELEGATE SCANLAN: Hopefully we will take up
20 and perhaps complete tomorrow third reading. Rule 59
21 as it now stands would appear to require that on the third

1 reading we would have to approach each individual section
2 of the entire Constitution by a majority of the Delegates.

3 Rule 59 was drafted at a time when there was
4 some uncertainty in our minds as to what the enabling act
5 meant, whether it required approval of the majority of
6 the delegates of any Article or division of the Constitution.

7 We now have in hand, and there was previously dis-
8 tributed to you an opinion of the Attorney General dated
9 December 26, 1967, in which it makes it perfectly clear
10 that the majority of the delegates is required for the
11 approval of each article of the Constitution, and that
12 the legislature apparently used the word "division" con-
13 templating the possibility that we could use some other
14 term, other than an article.

15 In any event, his opinion is perfectly clear
16 that the requirements of the enabling act would be satisfied
17 if each article of the proposed new Constitution were
18 approved by a majority of the delegates; that is, 72.
19 He specifically points out that our Rule 59 imposes a
20 requirement that is not in the enabling act and which
21 goes beyond the enabling act.

1 I therefore think it wise that we return to the
2 requirements of the enabling act and amend our own rule
3 so as to relieve ourselves of this unnecessary restriction
4 on third reading.

5 All sections have been considered in extensio.
6 We are on the verge of third reading. Let us just require
7 that each article be approved by a majority, and
8 then, of course, the entire draft Constitution would have
9 to be approved by the majority of the delegates.

10 That is the purpose of Resolution 29, and I
11 move its adoption.

12 THE PRESIDENT: Delegate Koss.

13 DELEGATE KOSS: May I address a question to
14 Delegate Scanlan?

15 THE PRESIDENT: Delegate Scanlan, do you yield
16 to a question?

17 DELEGATE SCANLAN: Yes.

18 DELEGATE KOSS: If the Convention amends Rule
19 59 as proposed, would that preclude the division
20 of any article if the Convention would so desire, so that
21 it might be voted on separately?

1 DELEGATE SCANLAN: Rule 51 now requires divisions
2 if it is requested and the matter is divisible. I think
3 that would have to be dealt with as we faced it. But
4 this rule would not affect that rule.

5 THE PRESIDENT: Any further amplification?

6 The division is made upon request. The decision
7 by the Chair that the question is divisible does not re-
8 quire a vote.

9 Any further discussion?

10 Are you ready for the question?

11 The question arises upon the adoption of Resolu-
12 tion No. 29. A vote Aye is a vote in favor of the resolu-
13 tion. A vote No is a vote against.

14 Cast your vote.

15 Has every delegate voted? Does any delegate
16 desire to change his vote?

17 The clerk will record the vote.

18 There being 105 votes in the affirmative and
19 0 in the negative, the motion is carried and Resolution
20 No. 29 is adopted.

21 The Chair recognizes Delegate Rollins.

1 Delegate Rollins, I am sorry I fell for that.

2 (Laughter.)

3 The Chair is advised that you have an amendment
4 and a motion you desire to make with respect to it.

5 DELEGATE CARSON: Mr. President, I would like
6 at this time to move that the necessary interfering
7 rules be suspended so that Amendment marked A in your pos-
8 session may be considered; and I would request that that
9 amendment be distributed so that the people, the members
10 of the Convention, could intelligently vote on the motion
11 to suspend.

12 THE PRESIDENT: The pages will please distribute
13 Amendment A.

14 While we are waiting for that, Delegate Clark
15 has passed up to the Chair a copy of the newspaper notice.
16 The funeral establishment from which Delegate Malkus'
17 father is being buried is not in Cambridge as I announced
18 yesterday, but is located at 263 South Conklin Street
19 in Baltimore. It is the Zeneno Funeral establishment.

20 This will be Amendment No. 17. The clerk will
21 read the amendment.

1 MR. QUILLEN: Amendment No. 17 to the Draft
2 Constitution as Revised on Second Reading, by Delegates
3 Carson, Cardin, Case, J. Clark, Gallagher, Hanson, Hender-
4 son, Kiefer, James, Marion, Morgan, Mudd, Schloeder, Sher-
5 bow, and Winslow:

6 On page 1-1 Section 1.04 Fair Treatment in
7 Investigations. in lines 47 and 48 strike out the following
8 words:

9 "legislative or executive investigations" and insert in
10 lieu thereof the following words:

11 "any investigation conducted by any governmental unit, or
12 any of its departments or agencies".

13 THE PRESIDENT: The question arises on the motion
14 to suspend all interfering rules to permit consideration of
15 Amendment No. 17 to section 1.04, as adopted on second
16 reading.

17 A vote Aye is a vote in favor of suspension of
18 rules. A vote No is a vote against.

19 Cast your votes.

20 Has every delegate voted? Does any delegate
21 desire to change his vote?

1 The clerk will record the vote.

2 There being 92 votes in the affirmative and 1
3 in the negative, the motion is carried and the rules are
4 suspended.

5 The question now arises on the adoption of
6 Amendment No. 17, submitted by Delegate Carson, seconded
7 by the co-sponsors.

8 The Chair recognizes Delegate Carson.

9 DELEGATE CARSON: Mr. Chairman and ladies and
10 gentlemen:

11 This amendment is largely in the nature of a house
12 keeping one, although it does technically create a substan-
13 tive change.

14 The language previously in this section and
15 still in this section speaks of legislative or executive
16 investigations, and therefore by its exact terms excludes
17 any possible judicial investigations.

18 Now, in the Constitution we have mentioned two
19 possible judicial investigations which would not be
20 courtroom proceedings, and they would be the Commission
21 on Judicial Disabilities and your Nominating Commissions.

1 In addition to that, that law, there are pro-
2 cedures for admission of attorneys to the Bar and
3 there are grievance proceedings against attorneys for mis-
4 conduct which might fall into this area, and I think it is
5 desirable that the whole waterfront be covered in this
6 particular section.

7 In addition, the section as it now reads does
8 not clearly in its terms state that all units of government
9 are covered, although by the history of this
10 section it was certainly intended that they be so.

11 So this is in the nature of a clarifying annual
12 encompassing amendment.

13 I have spoken to Delegate Gallagher who is one
14 of the co-sponsors, an original sponsor, and he is agree-
15 able. I have spoken to Delegate Mudd and Delegate Hender-
16 son. They are both agreeable to it, and also both the
17 co-sponsors.

18 I urge you to vote in favor of it. I don't think
19 there is any serious question concerning this.

20 THE PRESIDENT: Delegate Sollins.

21 DELEGATE SOLLINS: I am concerned about the

1 use of the words "governmental unit". Do you intend those
2 words to include governmental branches?

3 We have used the word "unit" in other senses
4 and other meanings in this Constitution, and that is what
5 concerns me.

6 THE PRESIDENT: Delegate Carson, I think the
7 expression used in some of the other sections you men-
8 tioned was "unit of government", rather than "governmental
9 unit".

10 Was that waht you intended, Delegate Carson?

11 DELEGATE CARSON: That is what I intended, and
12 it will probably be changed by Style to read "conducted
13 by the State or by any unit of local government", and I
14 might as well make that amendment right here, because
15 I know they are going to make that on me. So it would read
16 "any investigation conducted by the State or by any unit
17 of local government, or any of" -- and then it should be
18 "their departments or agencies'."

19 THE PRESIDENT: Is there any objection to modi-
20 fying the amendment so that lines 8, 9 and 10 would read
21 as follows:

1 "Any investigation conducted by the State or
2 any unit of local government, or by any of their departments
3 or agencies"?

4 The Chair hears none.

5 The amendment will be considered as so modified.

6 Delegate Sollins.

7 DELEGATE SOLLINS: Just a question of clarifi-
8 cation of Delegate Carson.

9 THE PRESIDENT: State your question.

10 DELEGATE SOLLINS: Then I understand by your
11 use of the word "State" you intend to include the three
12 branches of government, the executive, the legislative,
13 and the judicial?

14 THE PRESIDENT: Delegate Carson.

15 DELEGATE CARSON: Without qualification. And
16 it is also intended by the use of the second phrase, "any
17 unit of local government," that that would ~~include~~ either
18 the executive or legislative branch of the unit of local
19 government if those branches were separated at that level.

20 THE PRESIDENT: Any further discussion?

21 Delegate Bennett.

1 DELEGATE BENNETT: Delegate Carson, if you
2 please, would this comprehend an investigation of the
3 Public Welfare Department to determine whether or not
4 there was an employable male in the home?

5 THE PRESIDENT: Delegate Carson?

6 DELEGATE CARSON: In my opinion it would, Delegate
7 Bennett.

8 In my opinion, the previous language also would
9 have done that.

10 THE PRESIDENT: Delegate Bennett, do you have
11 any other questions?

12 DELEGATE BENNETT: Of course, then the issue
13 comes up as to what is right and fair and just treatment,
14 because these investigators, as you know, and as Mr.
15 Lloyd Taylor well knows, resort to many, many deviations,
16 if you please, in order to determine whether or
17 not there is an employable male in the home.

18 THE PRESIDENT: Delegate Carson.

19 DELEGATE CARSON: Well, Delegate Bennett, this
20 amendment doesn't go to those words. We have already
21 passed on that unanimously, I believe, and that is going

1 to be up to the courts to decide what they mean.

2 This amendment doesn't go to those words at all.

3 It doesn't affect them in the least.

4 THE PRESIDENT: Any further discussion?

5 Delegate Kiefer.

6 DELEGATE KIEFER: Delegate Carson asked me
7 about this also. It was my understanding that the original
8 section was offered because it was felt that perhaps
9 section 1.03, the Due Process and Equal Protection clause,
10 may not have gone so far as to cover all of these agencies;
11 but if there is any doubt about it, it seems to me it
12 should be conclusive, and we would concur in this amendment
13 and hope that it be passed promptly.

14 THE PRESIDENT: Any further discussion?

15 Are you ready for the question?

16 Delegate Willoner.

17 DELEGATE WILLONER: Mr. Chairman, I do like
18 this principle, but I must say to be thrown in on us at
19 this last moment, it does give us some worry. It appears
20 to me that the original was put in because we were pro-
21 viding in the Legislative Article for legislative

1 investigations that apparently, as I remember Delegate
2 Gallagher saying, we had not permitted before, and they
3 wanted to avoid the kind of thing that happened in Congress
4 where witnesses were abused. But this applying to all govern-
5 mental units created a completely new right, a right
6 my questions to some of the delegates has indicated might
7 create some problems.

8 Everybody is in favor of fair hearings, and I
9 certainly am, but the question really becomes how this
10 is operable, whether it would apply as he indicated to a
11 Bar Association hearing, whether that would require
12 open hearings or closed hearings, or whether a grievance
13 committee had to meet in the open.

14 There is just no limit to what might be involved
15 in a provision like this, and I find it somewhat scary
16 for that reason, and I would have to vote against it.

17 THE PRESIDENT: The Chair thinks it might be
18 desirable to read the entire section as it would read
19 when amended. It would read: "No person shall be denied
20 the right to fair and just treatment in any investigation
21 conducted by the State or by any unit of local government

1 or by any of their departments or agencies."

2 Any further discussion?

3 Are you ready for the question?

4 The clerk will ring the quorum bell.

5 The question arises on the adoption of Amendment
6 No. 17. A vote Aye is a vote in favor of the amendment.

7 A vote No is a vote against.

8 Cast your vote.

9 Has every delegate voted? Does any delegate
10 desire to change his vote?

11 The clerk will record the vote.

12 There being 83 votes in the affirmative and 9
13 in the negative, the motion is carried and the amendment
14 is adopted.

15 Delegate Wagandt, do you desire to make a mo-
16 tion at this time?

17 DELEGATE WAGANDT: Mr. President, I believe it
18 is Mr. Macdonald who will make that motion.

19 THE PRESIDENT: Very well.

20 Delegate Macdonald.

21 DELEGATE MACDONALD: Mr. President, after

1 consulting with several of my colleagues and giving this
2 matter very serious consideration, I think we prefer not
3 to make the motion at this time.

4 THE PRESIDENT: Very well.

5 Delegate Moser, do you desire to offer your
6 Amendment B?

7 DELEGATE MOSER: If the Chair will bear with me
8 just one moment, I would like to consult with Delegate
9 Macdonald.

10 THE PRESIDENT: Very well.

11 DELEGATE DELLA: Mr. President, during this lull
12 I have a parliamentary question or inquiry.

13 Will there be a withholding statement given for
14 the income that was earned in '67 before we leave here?

15 THE PRESIDENT: Do you mean will the comptroller
16 issue you such a statement?

17 DELEGATE DELLA: Well, through your efforts
18 with the comptroller.

19 THE PRESIDENT: Delegate Gallagher.

20 DELEGATE GALLAGHER: Mr. President, I don't think
21 that we specifically provided in the rewritten duties of

1 the comptroller that he could issue these W-2 forms, and
2 I think there is a serious constitutional question; and
3 I advise you not to answer, Mr. President.

4 THE PRESIDENT: Delegate Della.

5 DELEGATE DELLA: Mr. President, I think some
6 of the returns have got to be filed on January 15, and
7 it is just a question, how much was withheld. I think that
8 statement has got to be filed with the return.

9 THE PRESIDENT: Delegate Weidémeyer.

10 DELEGATE WEIDEMEYER: On a point of personal
11 privilege in these closing hours, I have often commended
12 Delegate Gilchrist on his ability to pour forth verse
13 and rhyme and humor, but the other day I was greatly
14 pleased when Delegate Hopkins of Baltimore, in her own
15 handwriting, sent me a little four-verse poem that
16 I thought she should receive credit for as a Baltimore City
17 Delegate. It is headed: "To Our Crabtown Delegate."

18 "The delegates assembled each thank you for a crab.

19 Not chewable, but viewable -

20 They make us look less drab.

21

1 "Though Grant won't share his Garrett gas
2 Nor Clagett share his stable
3 And Justice Scanlan leaves his tomes
4 At home upon a table,

5
6 "Though disappointment's been our lot -
7 No looked-for plums galore,
8 No wool from Clint, no wool from Vern
9 No ducks from Freddy's shore,

10
11 "At last a crab from Weidemeyer,
12 Our Santa of the Severn,
13 Now happy girls and boys
14 Can long remember this Convention."
15 (Applause.)

16 THE PRESIDENT: As the Chair is presently advised,
17 that concludes all business of the Convention prior to
18 third reading, except for some resolutions of a housekeeping
19 nature.

20 Are there any other matters that need to be
21 considered at this time?

1 Delegate Needle.

2 DELEGATE NEEDLE: I rise to a point of personal
3 privilege, and to follow up Delegate Hopkins' work.

4 Quite a few of the delegates are familiar with
5 the work of our poet laureate of this Convention, our Chief
6 Clerk. He has written quite a few limericks. If I may
7 take a moment, I hope the delegates will enjoy just a
8 couple of them, and I hope it might be possible to have these
9 reproduced and delivered to all delegates. I am sure they
10 would appreciate having them.

11 Several weeks ago Ira Wagonheim wrote:

12 Judge Powers says we'll finish next week,

13 He says it with tongue in his cheek;

14 Today's calendar and agenda

15 We won't have to amend-a,

16 (But the prospects look mighty bleak.)

17

18 Our President never wavers,

19 Though proper, he sometimes grants favors;

20 But today he's pendantic,

21 He's really quite frantic,

'Cause someone just lost his lifesavers

1 Our papers vary in hues,
2 Whites, russets, salmons, and blues;
3 Before it's complete
4 Won't it look neat
5 To have ballots of chartrues?

6
7 The flower of Con-Con was Susan,
8 Whose battle with Boileau's amusin';
9 His excuse was so lame,
10 (And so was his aim),
11 A steak on her eye Susan's usin'.

12
13 There's a group in the corner quite hale,
14 And most of its members are male;
15 But the center of attraction,
16 The cause of the action,
17 Is Delegate Susan M. Kahl.

18
19 Delegate Charles H. Wheatley
20 Spoke of the school boards quite neatly;
21 Though the votes he did lack, (more)

1 His plan of attack
2 Was to advance in reverse, but discreetly.
3
4 A debater far above par
5 Is the Rules and Credentials czar;
6 Though his comments are witty,
7 I think its a pity
8 He smokes such a smelly cigar.
9
10 While some delegates took a snooze,
11 Chairman Koss presented her views;
12 The long hours are rough,
13 Being short is real rough,
14 So she stood on a box, without shoes.
15
16 And very recently:
17
18 Great progress has just paved the way
19 For the Convention to feel king of gay,
20 Mr. Eney's elated,
21 The workload's abated
 To 22 hours per day.

1 And the last that I will read to you:

2
3 From Convention I am losing my health,
4 My sleep, and some of my wealth.

5 I can't keep awake,
6 I really do ache,
7 For January the 12th.

8
9 THE PRESIDENT: Thank you. (Laughter and applause.)

10 The clerk will ring the quorum bell.

11 Mr. Clerk, you might rise and take a bow.

12 (Applause.)

13 THE PRESIDENT: I think not having heard to the
14 contrary from Delegate Penniman, and really not desiring
15 to ask him, that we are in a situation to have the third
16 reading copies printed tonight and be available early
17 tomorrow morning.

18 I want to give everyone a chance to read it
19 through before being called upon for final vote. I think
20 we can accomplish final votes without undue delay.

21 The Chair is not advised of any protracted

1 debate likely on third reading. I therefore think we can
2 meet tomorrow afternoon, giving the morning to
3 read over the final copies.

4 There will be copies here in the chamber. It
5 will be easier for you to come get your copy than it will
6 be for us to look you up.

7 So I would anticipate that barring some problem
8 the copies will be here at nine o'clock.

9 Let me suggest to you, however, that in the mean-
10 time you have really a complete draft, with very, very few
11 changes.

12 The Chair recognizes Delegate Borom.

13 First of all, are there any announcements to
14 be made by committee chairmen?

15 Delegate Kiefer.

16 DELEGATE KIEFER: Mr. Chairman, I believe
17 everybody knows this, but it is my understanding that all
18 delegates are supposed to clear their desks in the committee
19 room, because they need these to be readied for the legis-
20 lature week after next.

21 THE PRESIDENT: You don't have to do that this

1 afternoon.

2 Delegate Taylor.

3 DELEGATE TAYLOR: Mr. President, I have been
4 asked by the back row to determine whether anything we
5 do at the party tonight will be under controlled or un-
6 controlled time?

7 THE PRESIDENT: It will be completely uncontrolled.

8 Any further announcements?

9 The Chair recognizes Delegate Borom.

10 All delegates not present earlier at the roll
11 call may indicate their presence now at supplemental roll
12 call.

13 The clerk will record the supplemental roll call.

14 Delegate Borom.

15 DELEGATE BOROM: Mr. Chairman, I move that
16 we adjourn until 1:00 p.m. tomorrow.

17 (The motion was seconded.)

18 THE PRESIDENT: All in favor, signify by saying
19 Aye, contrary, No.

20 The Ayes have it, and it is so ordered.

21 (Whereupon, at 4:15 p.m., the Convention
adjourned, to reconvene at 1:00 p.m. the following day.)

1
2
3 CONSTITUTIONAL CONVENTION

4 OF THE

5 STATE OF MARYLAND
6
7
8 -----
9

10 Chamber of the House of Delegates

11 State Capitol

12 Annapolis, Maryland

13 January 6, 1967 - 1:20 p.m.
14
15 -----
1617 HONORABLE H. VERNON ENEY,
18 PRESIDENT
19

20 Reported by:

21 D. Fitzgerald

and

C. Hunt

P R O C E E D I N G S

January 6, 1968 - 1:20 p.m.

THE PRESIDENT: The Sergeant at Arms will clear the aisles and close the doors.

The Convention will please come to order.

I think it is particularly fitting that today the minister to deliver the invocation is the pastor of the man who certainly more than any other delegate in this room is responsible for the existence of this Constitutional Convention. It, therefore, gives me a great deal of personal pleasure to announce that the invocation this morning will be offered by the Reverend Donald Hurst, Immanuel Methodist Church, Crisfield, Somerset County, Governor Tawes' pastor.

REVEREND HURST: Let us pray.

Our God, our Heavenly Father, as the final hours of this State Constitutional Convention rush upon us hear our prayer.

Now that much of the time consuming labor and strenuous effort has been expended in the making of a new Constitution, all that remains is the fullness of time

1 for its completion by delegates and adoption by the people.

2 Help us to feel the significance of this high
3 moment caught up in the history of the Free State that
4 resolved to have a new Constitution and as this Consti-
5 tution provides for the great and the small, help us to
6 not forget that such were the contributions which helped
7 to make it possible.

8 May it have the latitude to include all and
9 may it have the greatness to exclude that which is evil
10 and as it becomes our mode of living in this state upon
11 adoption, help us to remember Him whose teaching and life
12 are always to be revered and set forth as the perfect
13 example among mankind. In Jesus Christ, our Lord, for
14 it is in His name that we ask this blessing upon this
15 Convention in its convening hours. Amen.

16 THE PRESIDENT: Roll call.

17 (Laughter)

18 THE PRESIDENT: Has every delegate properly
19 answered roll call?

20 (Laughter)

21 THE PRESIDENT: The Clerk will record the roll

1 call.

2 There being a quorum present, the Convention
3 is in session.

4 The Chair recognizes Delegate Powers, Chairman
5 of the Committee on Calendar and Agenda.

6 DELEGATE POWERS: Mr. President, I move the
7 adoption of today's calendar.

8 THE PRESIDENT: Is there a second?

9 DELEGATE JAMES: Second.

10 (Whereupon, the motion was seconded.)

11 THE PRESIDENT: All in favor signify by saying
12 Ave. contrary, No.

13 The Ayes have it, and the calendar is adopted.

14 The Chair has an announcement to be made on
15 behalf of some of the delegates. The Clerk will read
16 the announcement.

17 MR. QUILLEN: An announcement by Delegates
18 Hickman, Adkins, Boyer, Child, Fox, Hostetter, E. T.
19 Miller, Rollins, M. H. Smith, Tawes, on behalf of the
20 Eastern Shore Delegates and by Delegate Rush: Mr.
21 President, ladies and gentlemen of the Convention: It is

1 with deep regret that we announce the death on January
2 4, 1968, of Frederick C. Malkus, father of Delegate
3 Frederick C. Malkus, Jr. Mr. Malkus was born in Baltimore
4 and for many years was a bookkeeper with a meat packing
5 firm in Baltimore. Mr. Malkus was seventy-six years old
6 at his death, and is survived by his widow, Mrs. Caroline
7 Malkus, a brother, George J. Malkus, and three grand-
8 children.

9 THE PRESIDENT: Any reports of Committees, Mr.
10 Clerk?

11 Committee Report No. LB-1. The Clerk will
12 read the report.

13 MR. QUILLEN: Committee Report No. LB-1 by
14 the Committee on the Legislative Branch, Francis X.
15 Gallagher, Chairman: A report on the rejection by the
16 Committee on the Legislative Branch of Delegate Proposals
17 No. 20, 192, 228, 323, 420, 425, and 437. The subject
18 matter of these proposals was not covered by any of the
19 three major Committee Recommendations of the Committee
20 on the Legislative Branch LB-1, LB-2, and LB-3.

21 THE PRESIDENT: The report will be referred to

1 the Committee on Calendar and Agenda. Are there any
2 other reports, Mr. Clerk?

3 We will, therefore, proceed to the next item
4 on the calendar, the third and final reading of the
5 proposed Constitution.

6 Delegate Clagett.

7 DELEGATE CLAGETT: I rise to a point of
8 personal privilege, Mr. President.

9 THE PRESIDENT: State the privilege.

10 DELEGATE CLAGETT: In the gallery, over your
11 head, Mr. President, are two very distinguished people
12 who happen to be the parents of a very distinguished
13 delegate to this Assembly, the delegate from the third
14 district of Baltimore City, Anne D. Hopkins. Those in
15 the gallery are Mr. and Mrs. Theodore Rognald Dankmeyer,
16 and we welcome them.

17 (Applause)

18 THE PRESIDENT: Delegate Cardin.

19 DELEGATE CARDIN: Mr. President, I rise to the
20 most pleasurable of personal privileges. I should like
21 to announce in the gallery the presence of my indulgent

1 and patient husband, Jerry, three of our children, Eileen,
2 Nina, and Sanford, and my parents, Mr. and Mrs. Samuel
3 Shoubin, without whose forbearance, patience, and support,
4 my participation would not have been possible. I hope
5 you will give them a cordial welcome.

6 (Applause)

7 THE PRESIDENT: Delegate Koger.

8 DELEGATE KOGER: I rise on a point of personal
9 privilege. In the rear gallery is a very, very dear
10 friend of mine, a retired judge of Baltimore City, Linwood
11 G. Koger, Sr. He is a Purple Heart winner of World War
12 I and the first of his state to serve as a vice commander
13 of the American Legion.

14 (Applause)

15 THE PRESIDENT: Delegate Ulrich.

16 DELEGATE ULRICH: Mr. President, I would like
17 the Convention to welcome my husband who has sat in this
18 balcony for many hours during this Convention, my dear
19 friend, Mrs. Patricia Barrows and her two lovely children,
20 Rickey and Susan.

21 (Applause)

1 THE PRESIDENT: Delegate Boyles.

2 DELEGATE BOYLES: Point of personal privilege.

3 THE PRESIDENT: State the privilege.

4 DELEGATE BOYLES: I would like to ask the
5 Convention to welcome to the gallery, right up there,
6 Mrs. Boyles and our younger daughter, Hope, who, I think,
7 might symbolize the feeling that the delegates might
8 have for this Constitution, hope.

9 (Applause)

10 THE PRESIDENT: Delegate Schloeder.

11 DELEGATE SCHLOEDER: Mr. Chairman, I would
12 like the Convention to greet the son of a delegate and a
13 former student of mine and a great help in both our
14 campaigns to be here, the son of Delegate John Hargrove is
15 seated in the balcony behind you, Steven Hargrove.

16 (Applause)

17 THE PRESIDENT: Delegate Gallagher.

18 DELEGATE GALLAGHER: Mr. President, I would
19 like to recognize the presence of my wife in the balcony,
20 but regretfully cannot do so because she is out shopping.

21 (Applause)

1 THE PRESIDENT: Delegate Weidemeyer.

2 DELEGATE WEIDEMEYER: Mr. President and
3 members of the Convention, I hope you will accord your
4 usual warm welcome to two lovely ladies, wives of our
5 distinguished delegates, Judge Hodge Smith and DeSales
6 Mudd. Both of these ladies have attended the Convention
7 sessions so often that I am sure that they know as much
8 about what has transpired as we do ourselves.

9 Also, I would like to take this opportunity
10 to welcome to the gallery a very awesome visitor and one
11 of my distinguished and gracious opponents, Mrs. Marian
12 Satherswaite who is very active in the League of Women
13 Voters and about whom I can say no other person was more
14 desirous of having a Constitutional Convention.

15 THE PRESIDENT: Delegate Willis.

16 DELEGATE WILLIS: Mr. President and members of
17 the Convention, in the balcony in front of the Chamber are
18 two guests of Delegate Carson, very important guests, his
19 son, Warren, and his daughter, June. I would appreciate
20 your joining us in welcoming them.

21 (Applause)

1 THE PRESIDENT: Delegate Bamberger.

2 DELEGATE BAMBERGER: Today may go down in history
3 from this day forward as a day of considerable note, the
4 day on which this Convention passed on third reading the
5 new Constitution of the State of Maryland.

6 But this day has gone on in the State of
7 Maryland as a day of some considerable significance for
8 twenty years. It is the birthday of Delegate Lord.

9 (Applause)

10 THE PRESIDENT: Delegate Fornos.

11 DELEGATE FORNOS: I would like to welcome all
12 the people who have not been mentioned, especially Mrs.
13 Herbert Thompson and Mr. B. K. Roberson, and Mr. Lou
14 Granger.

15 THE PRESIDENT: Delegate Hutchinson.

16 DELEGATE HUTCHINSON: I would hope this
17 Convention would give their usual warm welcome to my
18 mother and father who have been here on many occasions
19 and Miss Peggy Hoffman whom we have recognized many times.

20 In a few weeks my father will be coming to the
21 legislature to enact certain laws which we have enforced

1 upon him. We should welcome him.

2 (Applause)

3 THE PRESIDENT: Delegate Dorsey.

4 DELEGATE DORSEY: Mr. President, I would
5 like to call to the Convention's attention that seated
6 in the balcony to my right is the charming wife of
7 Delegate Kirkland of Prince Georges County and his son,
8 Richard, who is a senior at Suitland High School. I
9 wish the Convention would give them a warm welcome.

10 (Applause)

11 THE PRESIDENT: Delegate E. J. Clarke.

12 DELEGATE CLARKE: Mr. President, in the balcony
13 to the rear of the Chamber is the assistant to the
14 Chairman of the Republican National Committee and he
15 is also the vice chairman of the Republican State Central
16 Committee, Mr. Donald R. Kimble and his son, Billy Kimble.

17 (Applause)

18 DELEGATE CLARKE: Another distinguished
19 citizen of Montgomery County who has been here many
20 days is John Benedict in the gallery over the President's
21 stand who is the editor of the Suburban Record of Montgomery

1 County.

2 (Applause)

3 THE PRESIDENT: Delegate Kiefer.

4 DELEGATE KIEFER: Mr. President, I would
5 like this Convention to welcome my very warm friends,
6 Mr. and Mrs. Gerald Moore of Anne Arundel County of the
7 City of Annapolis, Maryland, with my ever forbearing wife.

8 THE PRESIDENT: Delegate Barrick.

9 DELEGATE BARRICK: I would like the Convention
10 also to welcome Monroe Feaga from Frederick. He is the
11 father of Helen Feaga who has been a page here and
12 worked very hard. He also has a son and I wish you to
13 welcome him.

14 (Applause)

15 THE PRESIDENT: Delegate Caldwell.

16 DELEGATE CALDWELL: Mr. President, I would
17 like for the delegates to welcome my son in the rear
18 balcony, Jerry Caldwell, Jr., and his friend, Ellen Bauer
19 who is the second to the President.

20 (Applause)

21 THE PRESIDENT: Delegate Della.

1 DELEGATE DELLA: Mr. President, I would
2 like to recognize the presence of Anne Hopkins' husband
3 in the balcony, Sam Hopkins.

4 (Applause)

5 THE PRESIDENT: Delegate Hardwicke.

6 DELEGATE HARDWICKE: Mr. President, ordinarily
7 I don't take the Convention's time, but I would think I
8 have to in self defense; otherwise, when I get home I
9 will hear about it. I would like to indicate the presence
10 of my wife, Mary, my daughters, Sandra, Christine, and
11 Heidi Hardwicke, and my sons, John and Timothy, in the
12 balcony over the President's head and my daughter, Sue
13 Jill, who is serving as a page in the front there.

14 (Applause)

15 THE PRESIDENT: Delegate Pullen.

16 DELEGATE PULLEN: Is that thing working?

17 THE PRESIDENT: Yes.

18 (Laughter)

19 DELEGATE PULLEN: I wasn't going to do this,
20 but I would like to note in these closing hours the
21 presence of my wife who is supposed to be up there and

1 if she is, I hope you will give her a warm welcome. She
2 has been coming here quite regularly and I have considerable
3 advice to give, and I want to say to Mr. Chabot, if you
4 want to know what patience is, wait until you are married
5 to a man for forty-five years.

6 (Applause).

7 THE PRESIDENT: Delegate Hopkins.

8 DELEGATE HOPKINS: I know the Convention will
9 want to greet in that gallery the wife of Delegate
10 Hickman.

11 (Applause)

12 THE PRESIDENT: Delegate Sherbow.

13 DELEGATE SHERBOW: Mr. President, as long as
14 we are classifying, I want to be considered in Delegate
15 Pullen's class. Mrs. Sherbow and I have been married
16 for forty-five years and still as patiently as ever, she
17 is sitting up in the gallery waiting to see when we will
18 adjourn.

19 (Applause)

20 THE PRESIDENT: Delegate Price.

21 DELEGATE PRICE: I would like to welcome my

1 wife who has been here several times and three of our four
2 children who are also latecomers in the gallery, my son,
3 Benjamin, and two of our daughters, Jennifer and Heather.

4 (Applause)

5 THE PRESIDENT: Delegate Kirkland.

6 DELEGATE KIRKLAND: Mr. President, for some
7 time now, whether you realize it or not, some of us have
8 been looking for Grover White. There has been quite a
9 bit of communication over in this corner regarding Ginger
10 Dorsey and not too long ago, in fact, during the New
11 Year's holidays, I had the privilege of being in the home
12 of one of my constituents, and I found something which I
13 am sure that Judge Dorsey will have use for and this is
14 Rover Pink, not Rover Black.

15 (A toy pink poodle was presented to the Judge.)

16 THE PRESIDENT: Delegate Dorsey.

17 DELEGATE DORSEY: On behalf of Ginger, I want
18 to thank my good friend from Prince Georges County for
19 this gift. I shall present it to her in a few hours. I
20 am sure Ginger will not only remember him, but will
21 always remember this Convention.

1 (Applause)

2 THE PRESIDENT: Delegate Schloeder.

3 DELEGATE SCHLOEDER: Will Judge Dorsey yield
4 for a question?

5 THE PRESIDENT: Delegate Dorsey?

6 DELEGATE SCHLOEDER: By any chance, sir, would
7 you give Ginger your vote on this Convention?

8 (Laughter and applause)

9 THE PRESIDENT: Delegate Dorsey.

10 DELEGATE DORSEY: In reply, I might say that
11 I feel that Ginger will cast her vote with the majority
12 of the people of Saint Marys County, whatever that might
13 be.

14 (Laughter)

15 THE PRESIDENT: Delegate Kiefer.

16 DELEGATE KIEFER: Mr. President, we have
17 recognized a number of people, but I don't think we
18 should let this occasion pass without recognizing whom
19 we might very well call the gracious first lady of this
20 Convention, Mrs. Eney.

21 (The Convention arose and applauded)

1 THE PRESIDENT: Thank you very much.

2 Delegate Scanlan.

3 DELEGATE SCANLAN: I am sorry to report this,
4 Mr. President, but there has been a complaint from some
5 of the tavern keepers in Annapolis. They are very
6 unhappy about the happy hour. They are accustomed to
7 having it begin at five and not at half past one and
8 they want you to know that.

9 THE PRESIDENT: The Chair has a number of
10 important announcements to make. They will have an
11 effect on the proceedings this afternoon. I will ask
12 you to bear with me and pay very, very close attention.

13 This way we can proceed in an orderly manner
14 without anyone being caught unawares or being disappointed.

15 Let me say at the outset that the fact that
16 you have on your desk and had available here at nine
17 o'clock this morning the third reading copy of the final
18 text of the Constitution and the Schedule of Transitional
19 Provisions was due entirely to the fact that not only
20 did the print shop work around the clock, but that many
21 members of the staff, the secretarial and professional

1 staff, left the State House at five-thirty this morning.
2 Under this kind of pressure and notwithstanding the
3 tremendous efforts which have been made to insure the
4 accuracy of the copy which has been placed before you,
5 it is utterly impossible to give the absolute assurance
6 which we all want that there has not been some typographical
7 error or some slight change overlooked or something
8 included that should not be. Even as this Convention sits
9 to take its final votes, members of the professional
10 staff are again repeating the process of checking, double
11 checking, really quadruple checking, because we are
12 trying to check against four different sources to make
13 sure that we have picked up, the staff, has picked up
14 all of the action of the Convention.

15 In addition, we have several groups of lawyers
16 entirely independent of the Convention to whom I sent
17 copies last evening of the complete text who are reading
18 through it for a different kind of error and that is not
19 a typographical error or a failure to pick up amendments,
20 but the kind of error to creep in when an amendment is
21 made in one section and has an effect on the other, and

1 it is not noticed at the time.

2 In addition, arrangements have been made
3 already for the entire professional staff to work not
4 only the rest of today, but all day tomorrow to check the
5 final copy to the greatest possible extent so that we
6 can, barring the kind of human error that creeps into
7 every endeavor, be sure that what we have done is the way
8 we want it.

9 For this reason, we have decided that there will
10 be a session on Monday at three o'clock, Monday after-
11 noon. Hopefully the session will last perhaps an hour
12 or so. We will not take the time today to offer numerous
13 housekeeping resolutions and resolutions of thanks. We
14 will save that for Monday and I am sure that you would
15 want to thank in person the various groups that make
16 up the fairly extensive staff of this Convention, and we
17 do not want to take the time to do that today. We will
18 do that Monday.

19 But the most important reason is to be able to
20 give you the assurance today that as each one of you once
21 more read over the complete document tomorrow, as I am

1 sure every delegate will, and as our professional staff
2 once more reads through the entire document, without
3 having the demanding pressure of the past few days, that
4 if we find an error the Convention will be in session
5 Monday afternoon in order to correct the error.

6 Efforts have been made to set the Constitution
7 in type with the idea that the formal and final imprinted
8 copy could be available for signature on Tuesday.

9 Reluctantly, we have concluded that we simply cannot take
10 a chance that it will be ready, even though at this very
11 moment the linotype machines are working copying the
12 Constitution with the idea of making changes if they are
13 needed. For this reason, as previously announced, the
14 signing ceremony will take place on next Wednesday, subject
15 to final determination as to the hour, probably at eleven
16 or at noon.

17 In addition, the ceremony will take place in
18 this Chamber. The physical problems connected with
19 having the ceremony in the old Senate Chamber are, if not
20 insurmountable, nearly so. The biggest problem is, of
21 course, one of space and we simply cannot manage it.

1 In addition, there would be absolutely no
2 room for spectators if we had the ceremony there. So
3 the ceremony ~~will~~ be in this Chamber. If we can, we
4 will bring into this Chamber the President's desk from
5 the old Senate Chamber so that the signing will take
6 place on the old Senate desk, but in the well of this
7 Chamber. The ceremony will perhaps last for an hour or
8 two. It is a little difficult to estimate this, but it
9 will not be long. The Convention will not adjourn
10 until after that ceremony so that the Convention will be
11 in formal session on Wednesday. So far as can be
12 determined at this time, after the session adjourns today,
13 there will, therefore, be only two other sessions, Monday
14 afternoon at three and Wednesday at eleven or twelve,
15 which will be announced later.

16 Now, with respect to the procedure on voting,
17 and I ask you particularly to follow me carefully and I
18 have already asked the parliamentarian to follow me
19 carefully so that if I get my tongue twisted in announcing
20 the rule, he can correct me and clear it up immediately.

21 This is final vote on third reading. As you

1 have amended the rule, we are not required to vote separately
2 on sections. We are required to vote separately on
3 articles and divisions.

4 As you have been previously advised, the
5 draft of the Constitution, including both the Schedule of
6 Transitional Provisions and the Schedule of Legislation,
7 are open to amendment on the third reading. More about
8 that in a moment.

9 In submitting the document to you for final
10 votes, it will be submitted in these divisions: First,
11 the preamble, next, Article I, and then successively each
12 article through Article X.

13 Next, the Schedule of Transitional Provisions
14 and next the Schedule of Legislation.

15 Inasmuch as the entire document is open to
16 amendment, it will be submitted to you first in these
17 divisions for purposes of amendment.

18 In other words, the Chair will first take up the
19 preamble, ask for amendments, consider and act upon any
20 amendments with respect to preamble and when all amendments
21 have been acted upon, move on and proceed in the same

1 manner with respect to each article in succession without
2 taking the final vote on any division or article until we
3 have been through the entire third reading for the
4 purpose of receiving amendments, receiving and acting upon
5 amendments.

6 After this has been done, we will then proceed
7 to a consideration of each division or article, that is,
8 the preamble first, and then each article successively,
9 and then each schedule successively for the purpose of
10 final reading. The third reading will have been completed.
11 The various articles will no longer be open to amendment.
12 You will only have final voting and then debate if any-
13 one desires to debate.

14 Questions have been asked as to division of the
15 question and as pointed out heretofore, under Convention
16 Rule 51, a division of the question may be called for. A
17 call for a division of the question is not a motion, nor
18 is it submitted to a vote of the Convention. The Chair
19 rules on the question of division, either allows the
20 division or refuses to allow the division. At that time,
21 whichever way the ruling of the Chair is, there may be an

1 appeal from the Chair. I call to your attention that it
2 is not a motion. You do not move for a division. You
3 simply request a division.

4 Rule 51 is very precise as to the circumstances
5 under which division may be allowed. We have followed that
6 rule in allowing or not allowing divisions throughout the
7 Convention, and we will continue to follow the same practice
8 now.

9 However, it is important that you have in mind
10 the precise terms of that rule and the basis for any ruling
11 by the Chair on the matter of division because the applic-
12 ation of the same principles is one thing in considering
13 an amendment to a section, for instance, and quite
14 another in considering a division called for on the final
15 reading.

16 Rule 51 provides that any question upon request
17 of any delegate may be divided provided, but only provided,
18 that each part of the question when divided presents a
19 matter of substance, that is, may stand alone.

20 To illustrate the application of the rule,
21 let us suppose that Article I is under consideration. We

1 have concluded the business of amendment. We are on the
2 stage of final voting and a division is called for by,
3 let us say, a request that Section 3.05, any section,
4 be divided from the remainder of the article. The test
5 applied by the Chair and the test which you must apply
6 in determining whether the division will or will not be
7 allowed is simple.

8 If in the situation which I have supposed,
9 namely, when Article III is being voted on finally, a
10 division is called for as to one section, say, Section
11 3.03. The test applied by the Chair in determining whether
12 the division is proper is this: If the question is
13 divided, Section 3.03 would be voted on separately and
14 then the entire remainder of Article 3.03 would be
15 voted on. One must ask himself what would happen if
16 either failed and if this situation, Section 3.03 were
17 adopted and the entire remainder of the article were not
18 adopted so that the entire Article III would then consist
19 of Section 3.03, would it make sense?

20 If it would not, then the division is not
21 proper. On the other hand, if Section 3.03 failed of

1 adoption and the entire remainder of the article were
2 adopted, would it make sense. If not, the division is
3 improper. The important thing to keep in mind is that this
4 is a simultaneous test. You must determine that which-
5 ever way the voting, what is left will in the language of
6 the rule present a matter of substance. In other words,
7 it will make sense.

8 Now, this is relatively simple in the case of
9 one amendment to one section because all you are considering
10 is whether or not a particular section standing alone
11 would make sense with or without the amendment. It is
12 quite a different question now because you are considering
13 the section in the context of the entire article and of
14 the entire Constitution.

15 We no longer have the situation that if any
16 article fails, the corresponding article of the previous
17 Constitution would remain in effect because Section
18 10.01 or 2 -- I forgot -- 10.02 provides that upon the
19 effective date of this Constitution, July 1, 1968, the
20 preceding Constitution ceases to have effect and, there-
21 fore, we apply the test in the light of this document

1 alone. That would mean, to come back to my illustration,
2 that if we had one section on which a division was called
3 for that provided how members of the General Assembly were
4 to be elected, the Chair would have to rule that it was
5 not divisible because if it alone were adopted and the
6 remaining portions of Article III were not, there would be
7 no provision for a General Assembly, but you would have
8 a provision for election of legislators to a non-existing
9 General Assembly. This would not make sense.

10 The net result is that on such examination of the
11 entire Constitution, as the Chair has been able to give, I
12 do not think it is possible to have a division of any
13 section from any article with the possible exception of
14 some sections in Article I, possibly some in Article X,
15 possibly some in the Schedule of Transitional Provisions,
16 and some in the Schedule of Legislation.

17 This is important because it means that if you
18 desire to present separately some question as to a
19 particular section, your only real opportunity to do so is
20 when the section is open for amendment at which time you
21 can submit an amendment.

1 You do not, therefore, have available now an
2 alternate choice in most instances of either submitting an
3 amendment or asking for a division. If you want the
4 question raised, it would have to be by amendment. You
5 cannot wait until the article is actually on final vote
6 and then ask for revision. The time for amendment will
7 have expired.

8 As the Chair indicated several days ago, when
9 we say that the article is open for amendment, we do not
10 mean that it is open for any and all amendments of any
11 kind. It would not be possible, for instance, to submit
12 an amendment to add a new section or even to add an
13 entirely new idea in an existing section because the
14 Convention rules provide that all proposals, and "proposal"
15 means anything to be included in the Constitution, must
16 be first submitted in the form of a proposal and then be
17 referred to a committee and then have the usual treatment
18 of first, second, and third readings for consideration of
19 the Committee of the Whole and so forth, so that the only
20 amendments which are proper are amendments which are
21 germane. This is, again, a question in the first instance

1 for the determination of the Chair. As I indicated
2 several days ago, the Chair intends to apply a very strict
3 rule in determining whether an amendment is or is not
4 germane. In ~~connection~~ with amendments as previously
5 announced, the Chair was inclined not to be too strict
6 on this issue in order to facilitate discussion. We
7 are now back on the final vote. We have to apply the
8 rule strictly so that I warned you several days ago, and
9 I repeat now the intention of the Chair to apply the rule
10 strictly. This does not mean that if an amendment was
11 offered previously as an amendment to a section or even
12 after second reading and was rejected that it may not be
13 offered again.

14 It may be offered if it is germane and if it
15 is not an entire new section or an entire new thought
16 embodied in the section. These may not be reoffered.
17 Amendments to delete language, amendments to change
18 language, so long as they are germane and so long as the
19 amendment does not destroy what is in the section, will
20 be allowed.

21 The Chair indicates with this degree of

1 preciseness what its intentions are so that you may govern
2 yourself accordingly and so that the Convention may in the
3 final determination act with respect to each of the rulings
4 of the Chair.

5 If any delegate either on a call for a division
6 which the Chair has ruled improper or which the Chair has
7 ruled proper disagrees, he simply appeals the ruling. The
8 appeal will be put promptly and as a matter, of course,
9 the Chair will state very briefly the basis for the
10 ruling and we will vote on the appeal. The same will be
11 true as to any amendment.

12 If the Chair rules the amendment germane, it
13 may be appealed. If the Chair rules the amendment not
14 germane, it may be appealed so that the final decision is
15 up to you.

16 On appeals from the ruling of the Chair, the
17 Chair is sustained unless it is overruled by a majority of
18 those present and voting. On the final votes on each
19 division, as you know, there must be seventy-two votes.
20 On amendments, the action is by a majority of those present
21 and voting.

1 Mr. Parliamentarian, have there been any
2 points omitted that should be covered? Are there any
3 questions?

4 Delegate Boileau.

5 DELEGATE BOILEAU: Mr. President, during your
6 announcements two persons that I hold in great affection
7 have come into the gallery of the Convention, and I
8 would like to take this opportunity to introduce them.
9 They are my mother-in-law and father-in-law, Mr. and Mrs.
10 Martin Schrott.

11 (Applause)

12 THE PRESIDENT: Delegate Ulrich.

13 DELEGATE ULRICH: Mr. President, one of the
14 little girls that I failed to introduce when I was on my
15 feet before is Miss Dorey Barrows. She came in a little
16 later and I didn't see her. I would like the Convention
17 to welcome her.

18 (Applause)

19 THE PRESIDENT: Delegate Hargrove.

20 DELEGATE HARGROVE: Mr. President, there has
21 been one lady in the gallery on many occasions during this

1 Convention who I do not believe has been introduced to
2 this Convention. She is the wife of one of the delegates.
3 She is Mrs. David Harkness.

4 (Applause)

5 THE PRESIDENT: Delegate Johnson.

6 DELEGATE JOHNSON. I have a question, Mr.
7 President.

8 Will the delegates have an opportunity to place
9 a final vote on the entire Constitution together?

10 THE PRESIDENT: Yes, I am very sorry that I
11 omitted that. In accordance with the enabling act and
12 with the rules, we will submit the entire document,
13 preamble, Constitution, and Schedules, for one final vote.
14 This does not seem to be required by strict interpretation
15 of the enabling act or the rule or the Attorney General,
16 but the Chair will put the final instrument to a vote.

17 Are there any other questions?

18 Delegate Grant.

19 DELEGATE GRANT: Mr. President, if at some
20 point while you are going through a Constitution, a
21 delegate discovers what he either believes to be or is a

1 typographical error, what is the proper movement to bring
2 it up?

3 THE PRESIDENT: Please call it to the attention
4 of the Chair at that moment.

5 Delegate Burgess.

6 DELEGATE BURGESS: Mr. Chairman, in reviewing
7 the draft here, there are certain words apparently
8 inserted by the Style and Drafting Committee.

9 THE PRESIDENT: I am sorry. I didn't mention
10 that. I had too many things on my mind. The first
11 matter will be the amendments proposed by the Committee
12 on Style. This will be the first consideration before we
13 consider the entire Constitution.

14 Are there any other questions?

15 I think probably, Delegate Grant, that that
16 would be the better time to call attention to typographical
17 errors, while the report of the Committee on Style is
18 being presented.

19 If there are no other questions, the Chair
20 requests that Delegate Penniman present the report of the
21 Committee on Style, Drafting, and Arrangement. This is

1 Report No. S&D-18.

2 DELEGATE DELLA: Mr. President.

3 THE PRESIDENT: Delegate Della?

4 DELEGATE DELLA: Mr. President, while the
5 Chairman is going to the rostrum, I would like to have
6 Delegate Armor and Delegate Gilchrist leave Annapolis with
7 honor, and, therefore, I must recognize their wives in
8 the balcony; otherwise, I am afraid they may not be allowed
9 to go home. Mrs. Armor and Mrs. Gilchrist.

10 (Applause)

11 THE PRESIDENT: Delegate Penniman.

12 DELEGATE PENNIMAN: Mr. Chairman, there are
13 very few changes made in this version of the work of the
14 Committee on Style, Drafting, and Arrangement.

15 There are, as I will note, one or two failures
16 on our part. One is a failure of omission where we failed
17 to make a change which should have been made and one is a
18 failure of commission where we made a change that should
19 not have been made.

20 It is evident that even with a full Committee and
21 with the best will in the world and with the assistants

1 that we had on at least some of the sections of the staff,
2 advisor of the Substantive Committee, or by the Committee
3 Chairmen, that one can make what is in retrospect a
4 terribly obvious error and I will note that one when I
5 come to it in Article III.

6 There is also an error of comission in Article
7 V which I will note.

8 I think that we have not made any other changes
9 or failed to make changes except as we intended to do. It
10 may be as we discuss this that you will find other errors
11 of omission or comission in our work.

12 If we turn then to the preamble and to Article
13 I, there are no changes from the last version to Section
14 1.08 and in Section 1.08 under the heading of Removal
15 of Criminal Cases in lines 17, we made the subject singular
16 and also made it clear that it is in a case involving
17 crime punishable by death, not in a case punishable by
18 death. There is no change except to clarify that it is
19 the crime not the case that is punishable by death.
20 The staff advisor for the Committee was with us at the
21 time that change was made. That is in line 17.

1 And in 1.13 you will find two changes. The
2 first of the changes is one involving the words "prescribed"
3 and "provide" and this is an explanation which I hope will
4 be clear by the time I get through with it..

5 In my enthusiasm the other day to follow the
6 suggestions of Delegate Marvin Smith, we changed all the
7 "provide" to "prescribed" and everything began to look
8 good until we began to read some of these and until the
9 Convention itself in handling the section on education and
10 in handling also, as I remember it, the section on
11 conflict of interest. So obviously you could not always
12 use the word "prescribe" where "provide" had previously been.
13 There are circumstances where one provides a general power,
14 but someone else carries it out. Often the test is
15 whether it ought to be followed by the words "provide
16 for" or the words "provide that". The test is not one that
17 is one hundred per cent clear in every instance, but
18 it is clear enough that on some occasions the Committee
19 on Style, Drafting, and Arrangement did revert to the word
20 "provide" or we were fortunate in one or two instances the
21 Convention missed a "provide" or "prescribe" error the

1 last time through so we didn't have to go back. I warn
2 you of this because there will be several instances. I
3 think the instance before you in 1.13 is one in point. We
4 are not prescribing in detail a jury. We are providing
5 for or making it possible that there be a jury. This
6 "provide by law for a jury" will be explained by the
7 methods that are common to it.

8 The second change in this one is in line 15.
9 That was in line 14. In line 15 it should be "not less
10 than six nor more than twelve".

11 In Section 16, I am going to try to cover
12 these a little more carefully than I did the last time
13 through so that each of you will see precisely what it is
14 that we were trying to do.

15 In the section under "Eminent Domain", 1.16,
16 we added in line 38 the word "any", "to any reasonable
17 limitations and restrictions". We think it reads slightly
18 better.

19 We did insert "Continuity of Government During
20 Emergencies" as Section 1.17 and put it ahead of the final
21 section of 1.18 of "Reserved Rights". I think those are
the only changes in the Rights and Preamble.

1 THE PRESIDENT: I think we better take them
2 article by article.

3 Are there any questions first as to the style
4 changes in the preamble or in Article 1?

5 Delegate Henderson.

6 DELEGATE HENDERSON: Might I ask a question
7 which involves one of these "prescribe's" which was not
8 changed. It occurs on page 4, line 47. It seems the
9 word "prescribe" seems awkward there. I suggest it should
10 be "provide".

11 THE PRESIDENT: I think the delegate is quite
12 correct.

13 I would be very pleased, anyone who wants to
14 get into the "prescribe and provide" game.

15 Is there any objection to modifying the
16 recommendations of the Committee so as to change the word
17 "prescribe" to the word "provide" on line 47, page 4?

18 The Chair hears none. The modification is made.

19 Chairman Penniman.

20 DELEGATE BURGESS: Here we have a certain
21 connotation of broadness that was not intended by the

1 Committee of the Whole.

2 Will you give us an explanation as to the intent
3 of the Committee, or what the Committee feels, if anything,
4 this word will do in this regard.

5 THE PRESIDENT: Delegate Penniman.

6 DELEGATE PENNIMAN: The only feeling that I
7 sought to suggest is that it reads better with that. There
8 are several ways that we could have handled that. It sug-
9 gests that reasonable limitations or restrictions would
10 mean any reasonable limitations and restrictions. I hold
11 no belief other than a matter of clarity.

12 THE PRESIDENT: Delegate Burgess.

13 DELEGATE BURGESS: This word would be synonymous
14 such as such.

15 THE PRESIDENT: Delegate Penniman.

16 DELEGATE PENNIMAN: Yes.

17 THE PRESIDENT: Delegate Burgess.

18 DELEGATE BURGESS: It would not affect a broad-
19 ening or limiting what we intended to give to the General
20 Assembly by way of restricting or limiting language.

21 DELEGATE PENNIMAN: In no case.

1 THE PRESIDENT: Any other questions?

2 The Chair hears none.

3 We will proceed to a consideration of Article 2.
DELEGATE PENNIMAN:

4 We were working with the staff and the Chairman
5 of the Committee on Suffrage and Elections. The first
6 change is the one that is to be found in lines 26, 7, 8,
7 and 9, which was merely reworking and trying to make somewhat
8 more obvious with the assistance of all of us who were there
9 from the Substantive Commission and the Committee on Style
10 the decision of this Convention which was made as I remember
11 it on Wednesday in making an amendment to this section on
12 voters in the national, state, and county election.

13 Sections 2.02 and 2.03 have been switched around
14 because it seems obvious we should follow voters in
15 national, state, and county elections, and those who have
16 voted in presidential elections and to put voters in
17 municipal elections separately.

18 In the new 2.03, the one on voters in municipal
19 elections in line 9 "nor" was changed as it should have
20 been to "or".

21 In Section 6 we added the words "by law". That

1 is in lines 37 and 38 to make it conform with the normal
2 way of handling it. That is lines 37 and 38.

3 Section 7, Section 2.07, line 8 is another of
4 the instances where we will revert to provide to be more
5 accurate because it does not give in detail the supervision,
6 but it provides for the supervision.

7 On the same page 7, in Section 2.09, we changed
8 the "most votes" to the "highest number of votes" in
9 conformity with its usage elsewhere in this Constitution.

10 In line 24, under "Referendum", we changed the
11 word "passed" to "enacted" because "enacted" includes not
12 only passage by the General Assembly and signing by the
13 Governor or the passage after veto over the Governor's
14 veto, by the requisite majority.

15 On page 8, Section 2.12 under "Suspension", lines
16 22 and 23, we simply again put it in the style which has
17 been the custom throughout the affirmative vote of three
18 fifths of all of the members of each House.

19 In Section 2.13, line 44, we put back in the
20 word "provided".

21 In line 46, we removed some words in the title

1 which did not seem to be necessary. We did, throughout,
2 seek to reduce the size of the titles or subsections
3 because we did not think it was necessary to make them too
4 long.

5 On page 9 in the last section, Article 2, we
6 added "nor any law" to make sure. This is in line 9,
7 rather than say "or granting" to make sure we are talking
8 about a separate set of laws. These are picking up merely
9 those which are listed elsewhere which was 3.23 and is
10 now 3.22. I think those are all in Article 2.

11 Are there any questions of the Committee
12 Chairman as to the style changes in Article 2?

13 Delegate Grant.

14 DELEGATE GRANT: On page 6, line 9, where you
15 have changed "nor" to "or", which I believe to be a grammat-
16 ical change, I would like the record to be abundantly
17 clear that you mean that you have two prohibitions.

18 THE PRESIDENT: Delegate Penniman.

19 DELEGATE PENNIMAN: That is correct, There are
20 two prohibitions. They cannot set an age greater than nine-
21 teen years; they cannot set a residence requirement of more

1 than one year.

2 DELEGATE GRANT: Also in line 37 of Section
3 2.06, which you have to look at in conjunction with line
4 46 and line 47 on page 65, in this particular section you
5 have "conviction of a serious crime", and that is presumed
6 that the Legislature will then define what a serious crime
7 is.

8 On Section 3 on page 35 of the inner provisions,
9 there is an old section put out of the Constitution. It
10 says "No person convicted of a felony or serious crime
11 shall be entitled to vote".

12 Have you undertaken a decision as to what is
13 a serious crime?

14 DELEGATE PENNIMAN: You have me at a great
15 disadvantage. What I have in front of me ends on page 64.

16 THE PRESIDENT: The other is a schedule of
17 legislation.

18 DELEGATE PENNIMAN: We did not concern ourselves
19 with a schedule of legislation. This is one which the
20 Chairman has told us can be changed by the Legislature.
21 It is one on which we were not to spend time and so the

1 question of relating that back to Section 2, Article 2,
2 is one which I would not address myself to.

3 We have in Section 2.06 as it came to us from
4 the Convention.

5 Now, I presume they may be seeking to cover the
6 same thing, but it is a substantive question.

7 THE PRESIDENT: Delegate Grant, I would take
8 it the question is one of substance rather than style.

9 DELEGATE GRANT: I believe it to be one of
10 substance, Mr. Chairman, but in view of the fact that you
11 have one definition in one place and apparently either
12 another definition or a definition of the definition that
13 is on page 6, you have to almost consider both of them at
14 this time to see if it would be desirable to make a change
15 on page 6.

16 THE PRESIDENT: I am only saying I don't think
17 the question is one properly addressed to Delegate Penni-
18 man. It may be a proper question.

19 Delegate Koss, did you understand the question
20 that was raised, or perhaps this is more a matter of the
21 schedule of legislation than it is of Article 2.

1 Is Delegate Hardwicke here?

2 Delegate Hardwicke, Delegate Grant directs
3 attention to the fact that on Section 2.06 on page 6, the
4 General Assembly is directly authorized to prescribe by
5 law disqualifications from voting in any event by reason of
6 conviction of serious crime, and on page 65, Section 3, is
7 the schedule of legislation, and there are interim provis-
8 ions for disqualifications from voting. It raises the
9 question of whether the inclusion of Section 3 in the
10 schedule of legislation is intended in any way as a
11 definition of what is meant by the words "serious crime"
12 in Section 2.06.

13 Delegate Hardwicke.

14 DELEGATE HARDWICKE: I think in a measure,
15 Delegate Grant, it is a definition.

16 Let me say that Section 3 on page 65 is excerpted
17 from Article 33, Sections 3, 4, and 5 of the present
18 annotated Code and that was the attempt of the existing
19 Legislature to define the term. This is our interim
20 attempt to continue that in our statute law.

21 THE PRESIDENT: But you do not mean to indicate,

1 I take it, that Section 3 is intended in any way as a
2 binding interpretation of Section 2.06, either to enlarge
3 or restrict the power of the General Assembly.

4 DELEGATE PENNIMAN: We do not consider it to be
5 a constitutional definition. It is what you might
6 consider to be a legislative definition and only an interim
7 measure.

8 THE PRESIDENT: Delegate Grant.

9 DELEGATE GRANT: I only point this out that the
10 old qualification section/ ^{had} "infamous crime" instead of
11 "serious crime" and this is why I believe the dichotomy
12 exists right now.

13 THE PRESIDENT: Any questions to Section 2?

14 Delegate Gill.

15 DELEGATE GILL: In the schedule of legislation
16 there is just a typographical error.

17 THE PRESIDENT: Let us hold it until we come
18 to that.

19 This is Article 2. Any other questions?

20 The Chair hears none.

21 Proceed to Article 3.

1 DELEGATE PENNIMAN: When we were discussing
2 Article 3 we had the assistance of Mr. Loevy, the staff
3 advisor to the Legislative Branch Committee. There were
4 a couple of items that came up which were discussed on
5 which we did nothing on because it appeared to us that
6 there was a substantive matter that might conceivably be
7 involved so those would come up from the floor and not
8 from us.

9 On page 10, in Section 3.04, line 8, we changed
10 the word "drawn" to "redrawn".

11 The reason we changed it to "redrawn" is that
12 elsewhere in the schedule of transitional provisions there
13 is a provision for the districts to be drawn in 1970,
14 as you know. We did not want to suggest that this would
15 be the first time in line 8, so if the word "redrawn"
16 was used, and it would have been just as accurate the
17 other way, but we did it this way for a certainty.

18 In Section 3.01, we changed "The legislative
19 power of the State" from "is" to "shall be", to correspond
20 with what was done in the other parts of the
21

1 article.

2 In Section 3.06, in lines 44 and 45 in addition
3 to shortening it by saying "commission plan" rather than
4 "plan of the commission", we put the "commission" in the
5 active voice to say "If the Court of Appeals finds" rather
6 than in the way it had been before.

7 Again, in line 16 under 3.07, we use "redrawn"
8 rather than "drawn" and also in line 17 we used the word
9 "in every tenth year thereafter".

10 The same thing was true back on page 10, line
11 10, "in every tenth year thereafter."

12 Let me note also at this point that we did
13 shift the sections so that we have "Congressional Districts"
14 immediately "Congressional Redistricting Procedure" immed-
15 iately after the ones on the Legislature.

16 There are arguments going both ways on it and we
17 first moved them at the end to separate them from any State
18 legislative matters, but then since each is involved or
19 rather the Commission is involved in each of the redistrict-
20 ing whether Congressional or Legislative, we moved it back
21 to have it Commission. It is a change which I think is for

1 the better.

2 You will notice also we put in headings of the
3 sort of intermediate variety on page 9. We inserted the
4 heading "Districts" in italics, but when we put it in
5 caps it is hard to notice and I missed it going back.

6 Under the general heading is included Districts
7 and Redistricting for both the General Assembly and for
8 Congress.

9 I think I have now covered each of the items up
10 to page 12, where again, we inserted in line No. 1, "Members
11 of General Assembly" under which we will have qualifications,
12 elections, terms, vacancies, and so on. There is a change
13 in the numbering, but the numbering is merely changed
14 because we had moved up the sections on Congressional
15 Redistricting.

16 In line 14 under 3.09, we have inserted "election
17 for members of", since it is the members who elect, not the
18 General Assembly, except in a collective sense.

19 In Section 3.10, line 29, we changed the word
20 "from" to "in", of the district in which he seeks election.

21 In Section 3.17 under Vacancies, line 42, the "The"

1 has been changed to "An appointee".

2 In Section 13, we find the goof which we made
3 and this is the one which I was referring to where we had
4 everybody there, including advice from the Substantive
5 Committee and we did what is obviously, the change which we
6 made in line 14 saying, "No person elected or appointed to",
7 changing that to "No member". It is obviously a substantive
8 change and an error on my part, again called to my attention
9 first at least by Delegate Marvin Smith.

10 The meaning of "No person elected to or
11 appointed to" includes anybody who has been elected or
12 qualified. Once he had been elected or qualified, then he
13 was no longer eligible. The way we stated it was wrong
14 because it would suggest that he had to be a member before
15 he would be unable to be appointed to any other office which
16 had been created while his term was going on, what I would
17 like to suggest is that line 14 reverts to the way it had
18 originally been reported to the Committee of the Whole
19 by the Committee on the Legislative Branch and thus correct-
20 ing the error which we in Style inadvertently allowed to
21 creep in or put in I should say.

1 THE PRESIDENT: Is this to the entire Section
2 3.13?

3 DELEGATE PENNIMAN: No. The only thing involved
4 is line 14.

5 I see Delegate Gallagher standing. He may
6 have a question about something else.

7 THE PRESIDENT: For what purpose does Delegate
8 Gallagher rise?

9 DELEGATE GALLAGHER: Mr. President, I think if
10 we kept the original language throughout perhaps with the
11 exception of line 20 where such has been changed to that,
12 that we might more possibly be closer to the original
13 intention of the Committee so that it would read "No person
14 elected or appointed to the General Assembly shall during
15 the term of office for which he was elected or appointed be
16 appointed to any office which shall have been created or
17 for which the compensation has been increased by the
18 General Assembly during that term."

19 I could read it the other way and see whether or
20 not it does. You are changing only the first line. If
21 we read it that way it would be "No person elected or

1 appointed to the General Assembly shall be appointed during
2 the term of office for which he was elected or appointed
3 to any office which has been created or for which the
4 compensation has been increased by the General Assembly
5 during that time."

6 As I read it the second time, I would be satis-
7 fied to have line 14 revert to its prior language. I don't
8 know what device the Chair would require of me in the way
9 of a motion.

10 THE PRESIDENT: It doesn't need a motion.

11 The Committee on Style requests unanimous consent
12 to modify its recommendations so as to restore line 14 on
13 page 13 to the form in which it was before any change had
14 been made, so is there any objection?

15 The Chair hears no objection. The modification
16 is made, so line 14, page 13, Section 3.13, will therefore
17 read "No person elected or appointed to".

18 You may proceed.

19 DELEGATE PENNIMAN: And the titles of 3.12, 3.13,
20 and 3.14, we reduced the length of them since they are all
21 under the heading of General Assembly. There was no need

1 to refer to the legislators each time because it is obvious.

2 Under the heading of General Assembly, in 3.15,
3 aside from removing the word "Legislative", in line
4 35, this is another one where we reverted to the word
5 "provide".

6 We changed in line 36, we changed "organization
7 session" to "organizational session", at the suggestion of
8 Vice-President James and it was quite correct.

9 In lines 43 and again in line 46 we added the
10 word "regular session" and this was at the suggestion of
11 staff advisor, to make clear that the whole session, that is
12 those first ninety days plus the next thirty or possibly
13 even the next thirty would still be the regular session,
14 so you don't create a third type of session beside special
15 session and regular session.

16 In line 50, the word "shall" since it was also
17 a changed word.

18 The next page, 3.14, we simply cut out the words
19 "General Assembly" which was not necessary.

20 The middle level heading on page 15, line 8,
21 "Legislation", was added.

1 In line 38, we took the "shall be taken" which
2 had been in line 37 and put it in 38 after the bill to
3 make it read exactly as it does completely parallel to the
4 next sentence. We had to make them parallel. We moved
5 the "shall be taken" until after the words "a bill" so it
6 now corresponds in style with the following sentence.

7 In Section 3.21, we say it is passed "by the
8 affirmative vote of" which makes it the same as it has been
9 the custom throughout.

10 There is no change, happily, in Section 3.22,
11 formerly 3.23.

12 In Section 3.23, line 46, you should change
13 "time" to "date" since it is obviously the first of July
14 or summer date that may be selected.

15 3.24 is "Post Audit". We decided to leave it
16 there because it is clearly a General Assembly function
17 with the General Assembly in complete control naming the
18 man and providing the directions for them. This covers
19 Article 3.

20 THE PRESIDENT: Are there any questions as to
21 Article 3?

1 Delegate Chabot.

2 DELEGATE CHABOT: Is it possible as a result
3 of 3.21 for a bill to be passed in joint session?

4 DELEGATE PENNIMAN: It is passed by the majority
5 of the members of each House. I don't think we made any
6 substantive change. A vote in joint session or in either
7 House on any bill or resolution or for the election or
8 confirmation of any state officer shall be taken only in
9 public session.

10 THE PRESIDENT: Delegate Penniman, the Chair
11 is a little disturbed by that change. I am not sure that
12 it wouldn't at least raise a question.

13 DELEGATE PENNIMAN: I see the problem. I suggest
14 we strike the change in line 5 to make certain that there
15 is no possibility of that.

16 THE PRESIDENT: You would also restore the "that"
17 in line 7?

18 DELEGATE PENNIMAN: Yes, it would be both in
19 line 7 and line 5.

20 THE PRESIDENT: Is there any objection to
21 modifying the recommendations of the Committee so as to

1 eliminate all change in the first section of Section 3.21
2 as it is printed on lines 3.27 on page 16. Is there any
3 objection?

4 Delegate Bamberger.

5 DELEGATE BAMBERGER: I don't think the Chair
6 eliminated all the changes.

7 DELEGATE PENNIMAN: The change involving "in
8 each House", but retaining the affirmative vote.

9 THE PRESIDENT: I am sorry, the two changes.

10 Is there any objection to modifying the amendments
11 proposed by the Committee so as to restore in line 5 the
12 words "in each House" and to restore the word "that" in
13 line 7 and to strike the word "each" in line 7?

14 The Chair hears no objection and the modification
15 will be made.

16 Delegate Winslow.

17 DELEGATE WINSLOW: Mr. President, may I revert
18 to Section 3.15 on page 13, please?

19 THE PRESIDENT: Very well.

20 DELEGATE WINSLOW: In line 35, Mr. Chairman,
21 you have changed "prescribed" to "provide", but in line 40,

1 where it seems to me that the use is exactly the same "to
2 prescribe by law for a regular session" should not the
3 same change be made there?

4 Line 40 says "otherwise prescribed by law". Is
5 not that use identical with "prescribed by law" in Section
6 35-36?

7 DELEGATE PENNIMAN: In the case of line 36, it
8 states that there shall be, it shall provide for or create
9 this organizational session at which somebody else will do
10 the organizational work. I am just trying to think on my
11 feet. I am not really answering your question. It does
12 set a particular date and it seems to me that this may be
13 the prescribed date. It does detail the particular date.

14 THE PRESIDENT: It refers to the "convene" rather
15 than "session".

16 THE PRESIDENT: Any other questions?

17 Delegate Mentzer.

18 DELEGATE MENTZER: Delegate Penniman, so our
19 report can be completely accurate, I call your attention
20 to Section 3.19. Will you call attention to the body of
21 the quotation marks that were placed in lines 12 and 13?

1 DELEGATE PENNIMAN: It is difficult to see
2 italics when they are in quotation marks, but it is true
3 that there are quotation marks around "to be enacted by
4 the General Assembly of Maryland".

5 THE PRESIDENT: Delegate Borom.

6 DELEGATE BOROM: Mr. Chairman, on pages 10 and
7 11, I call your attention to Section 3.06, line 34, and the
8 use of the term "shall transmit it", and we went through
9 this on second reading and we went through Section 3.08,
10 line 26. You are using the same reading. I made the
11 suggestion to Style that we should change the words "the
12 plan" to it.

13 DELEGATE PENNIMAN: That is correct. That was
14 agreed to, but it was simply missed.

15 DELEGATE BOROM: Thank you.

16 THE PRESIDENT: The change is --

17 DELEGATE PENNIMAN: We change the word on line
18 26, page 11, the words "the plan" to "it".

19 The difficulty -- I say this is a difficulty,
20 not an apology -- when we got the material on our brown
21 sheet, some changes were made on the floor, when the

1 Chairman was off the floor, we didn't have a pickup with
2 the excellent secretarial help in the back or because of
3 my failure to note. This is one of those instances.

4 THE PRESIDENT: On page 11, line 25, is there
5 any objection to striking the word --

6 DELEGATE PENNIMAN: Line 26.

7 THE PRESIDENT: I am sorry, line 26, striking
8 the words "the plan" and inserting the word "it"?

9 If there is no objection, the modification will
10 be made.

11 Any other questions as to Article 3?

12 Delegate Marion.

13 DELEGATE MARION: Chairman Penniman, this
14 perhaps ought to be addressed both to you and to Chairman
15 Gallagher, without having read again all of the substance
16 of the various sections under the general subheading
17 "Legislation" on page 15, I wonder whether or not it would
18 be appropriate to move the section dealing with form of
19 laws down after the two sections dealing with bills.

20 We have a section on consideration of bills
21 and passage of bills and then we have two more on laws.

1 I would wonder whether the one on form of laws might not
2 be between passage of bill and general application of laws.

3 DELEGATE PENNIMAN: The reason I believe that
4 they are in this order, and probably I should leave it
5 for Chairman Gallagher, that 3.19 does provide guidance.

6 THE PRESIDENT: Delegate Gallagher.

7 DELEGATE GALLAGHER: I agree with Chairman
8 Penniman's remarks. We are talking about form of bills
9 and law. Perhaps the addition of "bills and" might help.

10 THE PRESIDENT: The captions are not intended
11 to be fully descriptive. They are intended to be clues
12 rather than complete descriptions. Efforts are made to
13 make it short.

14 DELEGATE GALLAGHER: I won't press it. The laws
15 would come after the bills, but the first sentence pertains
16 to the way you introduce a bill prior to the time it becomes
17 law.

18 THE PRESIDENT: Wouldn't it be better to say
19 "form of bills" rather than "form of laws"?

20 DELEGATE GALLAGHER: That is quite acceptable.

21 THE PRESIDENT: Is there any objection to striking

1 the word "laws" and putting in the word "bills"?

2 The Chair hears none, so the modification will
3 be made.

4 Any other questions as to Article 3?

5 Delegate Chabot.

6 DELEGATE CHABOT: I would like to direct a
7 question to Chairman Penniman about Section 3.10 about the
8 election and term of office of legislators. The two words
9 "at noon" which are in this section and when we get to
10 Article 4, we do not use the words "at noon". I don't see
11 the necessity for having "at noon" in Section 3.10.

12 DELEGATE PENNIMAN: I have talked to Delegate
13 Chabot. I don't want to usurp his time, but we think of
14 this in our Committee as the Chabot problem, and I think it
15 got solved by having "at noon". You get the same result.
16 You get one man out and the other one in.

17 THE PRESIDENT: Delegate Chabot.

18 DELEGATE CHABOT: In this particular case,
19 however, I am afraid that you can't use until his successor
20 qualified language because every time there has been a
21 redistricting it would be difficult to determine who is the

1 successor of whom, but in the other situations the "as
2 qualified" language meets the problem perfectly well.

3 THE PRESIDENT: Delegate Bamberger.

4 DELEGATE BAMBERGER: Mr. President, I would like
5 to object belatedly to changing the title of 3.19. It
6 deals more specifically with laws. The more important
7 provisions of 3.19 relate to the bill after it is enacted,
8 particularly the last part of that paragraph.

9 DELEGATE PENNIMAN: Delegate Bamberger would be
10 correct if he noted that the word "bills" is not to be
11 found in that particular section -- excuse me.

12 THE PRESIDENT: There is an objection made to
13 the proposed modification. In the absence of an amendment,
14 we would have to revert to the style proposed in the
15 Committee report.

16 Anyone desire -- well, we will come to that
17 later, unless you desire, Delegate Penniman, to suggest,
18 even though it is a departure from the usual rule that you
19 use both words.

20 DELEGATE PENNIMAN: I have no objection either
21 way.

1 THE PRESIDENT: Delegate Gallagher.

2 DELEGATE GALLAGHER: It has been pointed out,
3 Mr. President and Delegate Penniman, that Section 3.19
4 does apply to laws throughout, as you read the section,
5 perhaps it would be better to go with laws the way it
6 originally is.

7 THE PRESIDENT: Very well.

8 Any other questions as to Article 3?

9 The Chair hears none.

10 Proceed to Article 4.

11 DELEGATE PENNIMAN: In Article 4 we make no
12 change except to add large type Governor and Lieutenant
13 Governor until we get to 4.05. This has to do with
14 Governor which will reappear for comptroller and attorney
15 general. It will take care of the problem that was raised
16 on the floor by Delegate Chabot. What we would do if we
17 end up with two governors or two attorney generals, but I
18 think we solved the problem for all of it, "for a term
19 beginning on the first Wednesday in January following his
20 election and ending on the first Wednesday in January in
21 the fourth year thereafter", and then the words, "and shall

1 serve until a person has qualified to become governor or to
2 serve as acting governor."

3 That will take care of it in each of the
4 circumstances where it comes up under Executive Branch.

5 On page 13, we have added the subheading "Guber-
6 natorial Succession". Then there have been no changes in
7 4.06, 4.07, 4.08, until we come to the problem on line 14.

8 We had a problem here of explaining in the same
9 manner as described above so as to take care of for the
10 Governor elect and the Lieutenant Governor elect the same
11 manner of looking into their disability as for the Governor
12 or for the Lieutenant Governor and we used this to refer
13 back in a less ambiguous manner than we had done it last
14 time to the procedure already described.

15 THE PRESIDENT: Apparently you also struck the
16 comma at the end of line 1.

17 DELEGATE PENNIMAN: Yes, that is correct.

18 There are no changes in 4.09 or in 4.10.

19 In 4.11, you may remember there was some discus-
20 sion on the floor involving the custom of adding first of
21 all the President of the Senate as acting Governor, that

1 was done by Chairman Morgan, but we were instructed in
2 the Committee on Style to reinsert a portion of a sentence
3 which had been struck and that is the reason for the
4 reinsertion of the service of the Lieutenant Governor
5 and then we speak of their service as acting Governor,
6 not acting as governor, which I think is more correct.

7 The new subhead of the Legislative Responsibil-
8 ities of Governor, there are no changes in 4.12 or 4.13 or
9 4.15 or 4.16.

10 In 4.17, there was again a question from the
11 floor saying that it was not clear that the attorney
12 general should represent the State in civil cases beyond
13 the cases in the Court of Appeals or the intermediate
14 court, so we covered that by saying "shall represent the
15 State in all civil cases in which the State is the party."
16 I think that probably does the job.

17 There are no further changes to Section 4.17.

18 You will note in the titles of 4.18 and 4.19,
19 we have deleted the words "of Attorney General", the
20 same change described above about the election process.

21 In line 25, we put in the subtitle of Comptroller,

1 and under that 4.20, 4.21, and 4.22 is the same problem
2 as in the case of the Governor and Attorney General, it is
3 the election process.

4 In Section 4.23, we inserted "Tie Votes" rather
5 than "Tied Elections."

6 In line 27 under Salaries, we changed the place
7 of the word "be" and put it after "shall neither be increased
8 nor decreased". It makes no difference.

9 Administrative Organization is a new heading.
10 We have Sections 4.25, 4.26, 4.27, 4.28, 4.29.

11 Page 26, we change simply the position of the
12 words "by law", line 5, from before to after "may prescribe"
13 which is the way that we generally done it.

14 There are no changes in the new 4.30 or 4.31.

15 THE PRESIDENT: There are two slight changes in
16 4.30, in line 22 and line 24. You change the position of
17 the word "so".

18 DELEGATE PENNIMAN: Yes, and it is an important
19 change to make very clear that all this shall be done "so
20 that the Governor, immediately upon taking office following
21 election, may appoint at least one-half". It should have

1 been where we put it in line 24 since that was the function
2 of all this change.

3 We removed "to come in" after "Senate". We can
4 see no change in 4.22, 4.23, 4.24, and 4.25. We inserted
5 the subhead.

6 DELEGATE MENTZER: In Section 4.19 and 4.22,
7 I suggest a comma after the word "thereafter" in order to
8 be consistent with Section 4.05.

9 THE PRESIDENT: What line in 4.19?

10 DELEGATE MENTZER: Line 14, in 4.19, and line
11 53 of 4.22. Referring back to Section 4.05 at line 47,
12 "thereafter" comma.

13 THE PRESIDENT: Do you wish to make the
14 modification?

15 DELEGATE PENNIMAN: All right.

16 THE PRESIDENT: Is there any objection to
17 modifying the report of the Committee to add the comma
18 after the word "thereafter" and also again on the same
19 page?

20 Delegate Sybert, do you object to the change?

21 DELEGATE SYBERT: No, I do not.

1 THE PRESIDENT: The change will be considered
2 as having been made and the report modified.

3 Delegate Sybert.

4 DELEGATE SYBERT: Mr. Chairman, in Section 4.19
5 dealing with the Attorney General in line 48, I think the
6 "or" should be changed to "and".

7 In practice, of course, the Attorney General
8 appoints one deputy and a number of assistants. I think
9 that "or" should be changed to "and" because actually it
10 has both.

11 THE PRESIDENT: Delegate Penniman.

12 DELEGATE PENNIMAN: This is the way it came to us
13 from the floor. I suppose one might interpret that as a
14 substantive change.

15 DELEGATE SYBERT: I think the drafters of the
16 section actually amended "and" because they did not mean
17 to depart from the time-honored and long-continued custom
18 of having at least one deputy and a number of assistants.
19 In actual practice for many years we have had both, one
20 deputy and a number of assistants.

21 THE PRESIDENT: Delegate Sybert, I am not sure

1 of this, but I faintly recall some discussion of the
2 Committee of the Whole about this and the suggestion was if
3 you said "and" it might look as though the Legislation
4 would be required to prescribe the vote.

5 Delegate Sybert.

6 DELEGATE SYBERT: I don't think it makes too
7 much difference.

8 THE PRESIDENT: Any further questions as to
9 Article 4?

10 The Chair hears none.

11 Article 5.

12 DELEGATE PENNIMAN: Article 5, Section 5.02.
13 We changed the title again.

14 Line 32 in 5.03 we changed "prescribe" back to
15 "provide."

16 Section 5.04, we reduced the length of the title.

17 In Section 5.06, we reduced the length of the
18 title and the same in 5.07. In 5.08 and 5.09 we did the
19 same. The same for 5.10 and 5.11. The same for 5.14.
20 No changes in the intervening ones. No changes in 5.15;
21 none in 5.16. None in 5.17.

1 In 5.18, in line 28, we struck the word "such"
2 because it did not seem to us that it added anything.
3 We already had the word "each" there and "each commission".
4 It seemed to apply to each and all of these.

5 There is no change in 5.19 or 5.20, 5.21, 5.22,
6 5.23, nor in 5.24, or 5.25.

7 In 5. 26, if you will turn to line . you will
8 see the third word as "fo".

9 In Section 5.27, line 9, we inserted the word
10 "the", so it will correspond with the usage in succeeding
11 lines, line 17 where it also said that the commission shall
12 have the power.

13 Section 5.28, no change.

14 Section 5.29, no change.

15 Section 5.30, no change.

16 Now, under "Administration", I would like to
17 propose, if I may, Mr. President, I would like to propose
18 a change in the section under Administration merely to
19 transpose the order of what is now 5.32 and what is 5.33.
20 It would seem to me under Administration it might be
21 preferable to put cost of Judicial Branch and then as a

1 separate item, Clerks of Court. If we put them separately,
2 that would mean removing from line 1, Cost of Judicial
3 Branch.

4 THE PRESIDENT: 5.33 would become what?

5 DELEGATE PENNIMAN: 5.33 would become 5.32 to
6 5.33 and change the section number on page 37 from 5.32
7 to 5.32 and to delete the caption in line 1 on page 37.

8 THE PRESIDENT: Is there any objection to the
9 modification?

10 The Chair hears no objection. The modification
11 will be made.

12 The attention of the Chair has been called that
13 there is no page 36. Do any delegates have such defective
14 copies? The reverse of 35 did not print. Do any delegates
15 have such defective copies?

16 Delegate Lord.

17 DELEGATE LORD: Mr. President, I have a defective
18 copy in that the back of page 23 is not printed on mine.
19 Maybe other people have that problem.

20 THE PRESIDENT: You have no page?

21 DELEGATE LORD: No.

1 THE PRESIDENT: Delegate Mentzer.

2 DELEGATE MENTZER: I have no page 28. Perhaps
3 someone else might want to check to be sure that they did
4 not have that same error.

5 THE PRESIDENT: Delegate Gill.

6 DELEGATE GILL: Page 19 doesn't have a back.
7 It has no printing on it.

8 THE PRESIDENT: Any other questions as to
9 Article 5?

10 Delegate Grant.

11 DELEGATE GRANT: Mr. Chairman, on page 34, lines
12 25 to 28, I have a different reading for those lines and
13 I am not sure whether I missed a correction along the line
14 or not, where we took out a business formed for the
15 intention of making a profit --

16 THE PRESIDENT: What page are you referring to?

17 DELEGATE GRANT: Page 34.

18 DELEGATE PENNIMAN: This is the one that the
19 President handed out a substitute page for yesterday during
20 the afternoon session so if you have the one that was
21 handed out the night before, you have the incorrect one

1 which included an amendment which was rejected and not
2 accepted. The one passed out yesterday in the afternoon
3 is the correct one and it should read, "or serve as an
4 officer, director, or employee of any business formed with
5 the intention of making a profit."

6 As I remember, it was Delegate Harkness's
7 resolution.

8 THE PRESIDENT: Will the page please get a brown
9 copy off the table in the lounge that contains by itself
10 what the page number in the brown copy is?

11 Delegate Penniman.

12 DELEGATE PENNIMAN: 5.7.

13 THE PRESIDENT: Give it to Delegate Grant.

14 Any other questions as to Article 5?

15 Delegate Marion.

16 DELEGATE MARION: Delegate Penniman, in that
17 same section, line 25, at the end of the line.

18 THE PRESIDENT: Which section?

19 DELEGATE MARION: Section 5. 25 with which the
20 last question was dealing, after the word "campaign", should
21 there not be a comma?

1 DELEGATE PENNIMAN: That is correct. There
2 would be a comma there.

3 THE PRESIDENT: Is there any objection to adding
4 a comma after the word "campaign" on page 34, line 35?

5 The Chair hears none. The modificiation will be
6 made.

7 Any other questions as to Article 5?

8 The Chair hears none.

9 We will proceed to Article 6.

10 Just a moment, Delegate Penniman.

11 DELEGATE PENNIMAN: Delegate Eney has asked me
12 what other pages have the blank beside 19, 21, 24, 26, 28.

13 DELEGATE CLAGETT: Mr. President, through your
14 representation, the Chairman of the Committee, I rise to
15 a point of personal privilege.

16 THE PRESIDENT: State the privilege.

17 DELEGATE CLAGETT? Mr. President, on behalf of
18 myself certainly because I can give myself that authority,
19 but also I believe on behalf of the other members of this
20 Convention, a number of whom have spoken to me to ask on
21 their behalf I similarly do what I am now about to do and

1 that is, Mr. President, to thank you and Mrs. Eney and
2 the other officers of this Convention who so graciously
3 welcomed us at the Reception last evening. We all had a
4 delightful time and we are very, very sincerely thankful to
5 you. Thank you. (Applause)

6 THE PRESIDENT: Are there any blank pages other
7 than 19, 24, 28, 31, and 36?

8 We will try to have those pages reprinted right
9 away.

10 DELEGATE AGNES WHITE SMITH: 51.

11 THE PRESIDENT: Any others?

12 Any other questions as to Article 5?

13 The Chair hears none.

14 Article 6.

15 DELEGATE PENNIMAN: Article 6. We had the
16 assistance of the staff advisor. That is to say he worked
17 with the staff members of the Committee on Style, Drafting
18 and Arrangement.

19 We made a change in line 8, and put in "only"
20 simply because it sounded a little better, to be imposed
21 only for public purposes and elected representatives.

1 It changes nothing in meaning.

2 In line 15 after checking with the Substantive
3 Committee, we changed it from the "time of the adoption"
4 of this Constitution to the "effective date" of this
5 Constitution, which would correspond with the way it is in
6 I think all other instances in the Constitution.

7 There were no changes in 6.03; none in 6.04;
8 none in 6.05; in 6.06, we removed some of the "such's" by
9 putting in in line 50, "the manner" and on line 1, page 39,
10 "the terms and conditions". We changed the "as" to "that
11 the General Assembly may prescribe by law".

12 No changes in 6.07, none in 6.08, none in 6.09,
13 none in 6.10, none in 6.11, none in 6.12.

14 In Section 6.13 we did make a change to make clear
15 that when the Committee said and we approved six days before
16 the expiration, "ten days before the expiration of its
17 regular session", it meant "by the eightieth day" of the
18 regular session. With the addition of these two possibly
19 thirty-day extensions, it was deemed desirable to make clear
20 that it was the "eightieth day" which would have been the
21 way to have stated it if we had not had these two little

1 extra's added on.

2 This was, of course, cleared with the Committee.

3 Section 6.14, no change.

4 Section 6.15, in the last line, it is not the
5 end of the sentence. Please remove that period after the
6 word "shall" in line 53.

7 THE PRESIDENT: On what page?

8 DELEGATE PENNIMAN: Forty-one, the last line,
9 "appropriation bill shall", and then it keeps on going.

10 THE PRESIDENT: Strike the period at the end of
11 line 53 on page 41. It is an obvious typographical error.

12 DELEGATE PENNIMAN: 6.16, no change. We put
13 "Lottery" in this section not because it does anything for
14 state finances, but it is to make clear that this is one
15 of the ways in which you cannot raise state finances, so
16 it is put in this section.

17 That completes that section.

18 THE PRESIDENT: Are there any questions as to
19 Article 6?

20 Delegate Henderson.

21 DELEGATE HENDERSON: Do you need a main heading

1 Lottery when you have the subheading there? It seems to
2 me it is a duplication.

3 DELEGATE PENNIMAN: It is a duplication, but we
4 did not want it to be left under the budget appropriation.

5 THE PRESIDENT: Delegate Mentzer.

6 DELEGATE MENTZER: Delegate Penniman, I am not
7 sure that you pointed out that the section is now called
8 "Finance" rather than "Finances".

9 DELEGATE PENNIMAN: Excuse me.

10 DELEGATE MENTZER: In Section 6.10, line 19,
11 we did strike a comma. We made no changes.

12 DELEGATE PENNIMAN: We did indeed after Judicial
13 Branch.

14 THE PRESIDENT: Delegate Hanson.

15 DELEGATE HANSON: Delegate Penniman, is not the
16 change in line 22 on page 41, Section 6.13 really a
17 substantive change in light of Section 3.13?

18 DELEGATE PENNIMAN: I think it is not a substant-
19 ive change. In checking with the Committee, the regular
20 session as originally established was a ninety-day session.
21 One of the reasons that the "regular" was inserted in the

1 other ones was growing out of this whole discussion here.
2 I think it is not a change from the substance of the
3 Committee or of the expectation of the Committee of the
4 Whole.

5 THE PRESIDENT: Delegate Hanson.

6 DELEGATE HANSON: I would probably agree that it
7 is not a change from the intention of the Committee, but
8 it seems to me it is indeed a substantive change.

9 DELEGATE PENNIMAN: I think it is not. For
10 example, if it happened on the 140th day it would be
11 difficult for them to extend the session beyond 150. It is
12 easy enough to extend beyond the ninety days.

13 DELEGATE HANSON: May I state what bothers me
14 about this is Delegate Penniman's response to it. In
15 Section 3.15 we provide that the General Assembly may
16 extend its regular session. It seems to me that if we
17 write this here as the 80th day we have two inconsistencies,
18 the one possibly which I was suggesting earlier, but a
19 second and perhaps more serious one when viewed in the
20 light of 3.15 in that we are creating here a new way in
21 which the length of the General Assembly may be extended.

1 It was not inconsistent with 3.15 when it was left
2 ten days before the end of the regular session, but now we
3 are saying that maybe it isn't inconsistent, but it seems
4 that we are creating a new procedure for extending the
5 length of the General Assembly that is not provided for in
6 3.15, and I think this problem should be cleared up.

7 THE PRESIDENT: I am sorry. I don't follow the
8 point you are making now. I did the earlier one. In what
9 way does the change in Section 6.13 either extend the
10 session or authorize an extension of the session? I am
11 not following your point.

12 DELEGATE HANSON: Section 6.13 permits the
13 Governor by proclamation to extend the session until the
14 enactment of the budget and ten days thereafter, this is
15 if it has not been enacted by ten days before the expira-
16 tion date.

17 Section 3.15 on the other hand provides that the
18 General Assembly may on its own volition extend the session
19 by a majority vote for thirty days and an additional thirty
20 days by a three-fifths majority vote.

21 I am not saying that they are inconsistent, but

1 we are creating a kind of peculiar problem, I am afraid.

2 THE PRESIDENT: I take it that what you are
3 saying is that the way it was before, if the section had
4 been extended by the General Assembly to the full extent
5 of 150 days and they had not enacted the bill by the 140th
6 day then the Governor not only had the power that he has
7 under other sections to extend, but he was mandated to
8 extend the session here for at least twenty days, is that
9 correct, Delegate Hanson?

10 DELEGATE HANSON: That is correct, or up to
11 twenty days.

12 THE PRESIDENT: In light of the colloquy that
13 occurred before in the Committee of the Whole that what the
14 Committee on Style has done is probably in conformity with
15 what the Committee of the Whole intended. I think you are
16 proper to call the matter to the attention of the Assembly.

17 Is Delegate Gallagher here? I would like to
18 confirm, Delegate Gallagher, whether the Chair is correct
19 in his recollection of the discussion in the Committee of
20 the Whole or if there was no such discussion whether it was
21 the intention of the Committee on the Legislative Branch.

1 The question arises with respect to the change
2 made by the Committee on Style in connection with page 41,
3 line 16. Delegate Hanson points out the way it was
4 written before. If the Legislature extended its session
5 to 150 days and had not enacted the budget bill by the 140
6 days the Governor was mandated to extend the session for
7 at least twenty days or ten days beyond 150, and by the
8 change this does not occur. The Governor is not under any
9 circumstances required to continue the session beyond 150
10 days. Do you follow the point?

11 My statement was that the change made by the
12 Committee on Style is in conformity with what the Committee on
13 the Legislative Branch and the Committee of the Whole
14 intended.

15 Delegate Gallagher.

16 DELEGATE GALLAGHER: Yes, sir. We discussed this
17 over the last several days and I had told my staff advisors
18 that this change was consistent with the intention of the
19 Committee of the Whole.

20 THE PRESIDENT: Any further questions? Any
21 further questions as to Article 6, that is.

1 Delegate Sybert.

2 DELEGATE SYBERT: Mr. Chairman, is page 41 and
3 page 42 one of the ones to be reprinted? I find that my
4 second page 42 is missing.

5 THE PRESIDENT: No, it is not. I will see that
6 is done.

7 Delegate Penniman.

8 DELEGATE PENNIMAN: On page 41 there is a
9 misspelling of the word "appropriation" on line 50.

10 THE PRESIDENT: The obvious typographical error
11 will be corrected.

12 Any further questions as to Article 6?

13 The Chair hears none.

14 We will proceed to Article 7.

15 DELEGATE PENNIMAN: In Article 7, no change in
16 7.01, none in 7.02.

17 A "prescribed" for "provided" in line 33 of 7.03.
18 We made "amendment" singular. Also "may", we changed the
19 order of words. We changed "provide" to "prescribed".

20 Section 7.04, no change.

21 Section 7.05, we changed "provide" to "prescribe"

1 on line 18. The position of the word "may" is shifted on
2 line 26 in Section 7.06.

3 THE PRESIDENT: Delegate Penniman, will you
4 pause just a moment?

5 DELEGATE PENNIMAN: Yes, sir.

6 THE PRESIDENT: I was bothered earlier and
7 something interrupted me at the time with respect to one
8 of these "provided" and "prescribe" changes in connection
9 with rules by the courts. I don't remember what section it
10 was.

11 DELEGATE PENNIMAN: Was that Article 5?

12 THE PRESIDENT: Yes, I think.

13 DELEGATE CLAGETT: Section 7.03, line 33?

14 THE PRESIDENT: No, that is not the one I am
15 thinking of. Where is the section about the power of the
16 courts to prescribe rules?

17 DELEGATE PENNIMAN: 5.03. May we go back for
18 a moment to Section 5.03, page 28. I am a little concerned
19 about the changes made there and I am not sure that they
20 were mentioned. In lines 30 and 32 change the word
21 "prescribe" to "provide"

1 THE PRESIDENT: I suppose the word "for" was
2 added.

3 DELEGATE PENNIMAN: No, the word "for" was there.

4 THE PRESIDENT: I suggest that there is a garble
5 in the sentence.

6 DELEGATE PENNIMAN: I agree to that. I should
7 have called it to your attention because we looked at it
8 because we didn't know what it meant and we didn't have
9 someone from Judiciary who wanted to assert what it meant.

10 THE PRESIDENT: So we can save time, Mr. William
11 H. Adkins, I think there is a garble in Section 5.03.
12 Would you undertake to look at the earlier drafts and see
13 if it can be picked up while we move ahead? Thank you.

14 Proceed now with Article 7.

15 DELEGATE PENNIMAN: In 7.04, no change.

16 In 7.05, a change from "provide" to "prescribe".

17 7.06, change of the location of the word "may".

18 Put it together with the verb.

19 Line 29, change "provide" to "prescribe".

20 No change in 7.07.

21 None in 7.08.

1 None in 7.09.

2 None in 7.10.

3 THE PRESIDENT: Are there any questions as to
4 Article 7?

5 Delegate Moser.

6 DELEGATE MOSER: On page 43, Delegate Penniman,
7 Section 7.04, line 24, would it be possible for your
8 Committee to accept the insertion of the word "only after
9 adopted" because of the language in line 38 of the next
10 section?

11 DELEGATE PENNIMAN: I think that would be accept-
12 able.

13 THE PRESIDENT: Where is the change?

14 DELEGATE MOSER: Line 34 after "be adopted",
15 put "only if approved".

16 DELEGATE PENNIMAN: That would be the same style
17 as in line 38.

18 THE PRESIDENT: Is there any objection to modify-
19 ing the recommendations of the Committee so as to insert
20 after the word "adopted" on line 24, page 43, the word
21 "only"?

1 The Chair hears none. The modification will
2 be made.

3 Delegate Moser.

4 DELEGATE MOSER: On the same page in line 48,
5 the language "or has been denied to it", the word "it"
6 might be taken to refer back to another governmental unit
7 and would it be possible to insert the words "the county"?

8 DELEGATE PENNIMAN: I think this would be
9 considered style and would be acceptable.

10 THE PRESIDENT: Would it not be desirable if you
11 would make that change to make the same change in line 45
12 even though it may not be absolutely imperative.

13 DELEGATE MOSER: All right.

14 THE PRESIDENT: Is there any objection to
15 modifying the recommendations of the Committee so that
16 in line 45 on page 43, strike the word "it" and insert the
17 words "the county", and in line 48 on page 43 strike the
18 word "it" and insert the words "the county"?

19 The Chair hears none. The modification will be
20 made.

21 Delegate Moser.

1 DELEGATE MOSER: Lastly, on page 45, line 29,
2 I think it is, should there not be a comma after the word
3 "served"?

4 THE PRESIDENT: What line?

5 DELEGATE PENNIMAN: Line 29.

6 Yes, sir; comma after the word "served" in line
7 29.

8 THE PRESIDENT: Is there any objection to modify-
9 ing the recommendations of the Committee so as to insert a
10 comma after the word "served" in line 29 on page 45?

11 The Chair hears none. The modification will be
12 made.

13 Any other questions?

14 Delegate Boyles.

15 DELEGATE BOYLES: Chairman Penniman, I don't
16 want to get into the prescribe-provide deal because I don't
17 really know, but on page 45, in section 7.08, line 2, where
18 the General Assembly may provide and I do recall that this
19 was by law as we discussed this point now. Should that be
20 a "prescribe"?

21 DELEGATE PENNIMAN: Actually, the word "prescribe

1 by law" should be in. It doesn't prescribe the referendum.

2 It makes possible for it. It provides for it.

3 DELEGATE BOYLES: Provide by law.

4 DELEGATE PENNIMAN: Yes.

5 THE PRESIDENT: What is the change?

6 DELEGATE PENNIMAN: To add the words "by law"
7 after the word "provide".

8 THE PRESIDENT: Line 2, page 45.

9 Will the Clerk please ring the quorum bell.

10

11

12

13

14

15

16

17

18

19

20

21

1 THE PRESIDENT: The Chair has asked that the
2 quorum bell be rung because I am very disturbed. I have
3 been advised that some delegates are leaving because of the
4 fact that it is snowing and that it will continue snowing
5 through the night. I realize that this is not a very
6 happy situation, but the fact is that in order to adopt
7 this Constitution, we need seventy-two votes on each and
8 every article and division, and I suggest that it would
9 be calamitous if in taking the final vote any substantial
10 number of delegates should leave with the view or thought
11 that one or two absences wouldn't make any difference.

12 In addition to that, even if we had seventy-
13 two votes, I further suggest to you that it would be well
14 nigh calamitous to have a Constitution not adopted by
15 what, I think, would be normally the overwhelming vote in
16 this Convention because if the vote is not such, it would
17 be the subject of much discussion in the election campaign.

18 I, therefore, urge every delegate to remain
19 until we conclude voting and make whatever arrangements
20 may be necessary if the snow makes it too hazardous for
21 him or her to return to his home.

1 Delegate Marion.

2 DELEGATE MARION: Mr. President, had you
3 inserted the words "by law" on line 20 on page 45?

4 THE PRESIDENT: The words "by law" on page
5 45 of line 20 have been inserted.

6 Delegate Marion.

7 DELEGATE MARION: I raise a question about
8 that, Mr. President, because I wonder whether if those
9 words are inserted it would lead to the construction that
10 before a referendum were to be provided on any such
11 law a separate law would have to be enacted providing
12 that such a referendum take place.

13 As I understand the intent, it is to permit the
14 General Assembly to provide in a law pertaining to a
15 popularly representative regional government that the law
16 it enacts be submitted to referendum.

17 THE PRESIDENT: I think the point is well
18 taken. It was discussed. Do you object to the change?

19 DELEGATE MARION: I think so. I would like
20 to see what Delegate Moser has to say, whether he concurs
21 or not.

1 THE PRESIDENT: Delegate Moser.

2 DELEGATE MOSER: I was trying to determine why
3 "by law" was left out. It was deliberately left out.

4 THE PRESIDENT: Very well. Is the modification
5 objected to?

6 DELEGATE MOSER: Yes.

7 THE PRESIDENT: Then the modification will not
8 be made unless there is an amendment to make it.

9 The modification suggested on page 45 in line
10 20 will not be made.

11 Any further amendments to Article VII?

12 Delegate Gill?

13 DELEGATE GILL: Mr. President, I think you said
14 you were going to ring the quorum bell. I don't think
15 you rang the quorum bell, and I don't think the people
16 out heard the explanation.

17 THE PRESIDENT: I couldn't understand what you
18 were saying, Delegate Gill.

19 DELEGATE GILL: You said you were going to ring
20 the quorum bell, and you didn't ring it, and you went
21 to explain it, and you didn't ring the quorum bell. We

1 didn't vote our presence.

2 THE PRESIDENT: I didn't take a roll call. I
3 rang the quorum bell to get the other delegates back in.

4 Any other suggestions as to Article VII?

5 Article VIII?

6 Delegate Penniman?

7 DELEGATE PENNIMAN: Article VIII, we switched
8 the word "also" and changed the word "that" so that it
9 reads a little better. No changes in 8.02.

10 THE PRESIDENT: Any questions as to Article
11 VIII?

12 The Chair hears none.

13 Article IX?

14 DELEGATE PENNIMAN: Article IX, we simply moved
15 the verb "shall", the auxiliary, down to the main verb.
16 We changed the order, as you will note, of the items,
17 the sections, in General provisions to put together those
18 involving the Government, the Oath, the Conflict of
19 Interest, Limitation of Holding Office, and Impeachment
20 together. We put the Militia next and then Natural
21 Resources, Consumer Protection, Sovereign Immunity together,

1 Intergovernmental Cooperation. We changed it to make it
2 precisely the way it is in 1.04 as it was discussed on
3 the floor when Delegate Carson introduced the amendment
4 yesterday for any unit of local government which is the
5 meaning of a governmental unit, and that is the end of our
6 changes in IX.

7 THE PRESIDENT: Any questions as to Article IX?

8 The Chair hears none.

9 Article X?

10 DELEGATE PENNIMAN: Article X: In 10.02,
11 the Effect of Constitution on Existing Law, in line 22,
12 we changed "prior Constitution" to "of 1867 as amended",
13 which is the way it has been referred to elsewhere and to
14 make perfectly clear that it is that Constitution and in
15 line 35, under 10.03, we changed "an affirmative vote"
16 to "the affirmative vote" which, I think, is correct in
17 the circumstances.

18 On page 51, under Constitution Convention,
19 "within sixty days after such approval by the voters",
20 drop the word "such" in that instance and in line 14
21 change the word "such" to "the".

1 There are no changes in the Transitional
2 Provisions.

3 That is the end of the Constitution proper.

4 THE PRESIDENT: Are there any questions as to
5 Article X?

6 The Chair hears none.

7 Now, the Schedule of Transitional Provisions.

8 DELEGATE PENNIMAN: We made virtually no
9 changes. We were only checking it to make sure as best
10 as we could that the sections in here related to the same
11 sections we had in the Constitution, the same numbering, so,
12 if I may, I will just run them by pages.

13 We made no changes on 53, none on 54, except
14 in the numbering of these since some were dropped on the
15 floor. We had to change the numbering of the sections.
16 There are none that I see on 55.

17 THE PRESIDENT: The Chair has something called
18 to its attention by the staff working on Transitional.

19 In line 15, page 55, the reference to Section
20 4.31 should be 4.30 because the sections were rearranged.

21 DELEGATE PENNIMAN: I think that should be

1 checked. I think it should be the other way around. The
2 one in the accompanying memorandum is 4.30. It may be the
3 one that is wrong. The staff is checking it.

4 THE PRESIDENT: There is a typographical error
5 in line 37. The obvious error will be corrected.

6 Proceed, Delegate Penniman.

7 DELEGATE PENNIMAN: In page 56, line 11, there is
8 an error in the numbering. It should be changed from
9 18 to 17, Section 17, typographical error.

10 THE PRESIDENT: Typographical error in line 9,
11 semicolon should be a period. The obvious error should
12 be corrected.

13 What is the next that you mentioned?

14 DELEGATE PENNIMAN: The numbering of the
15 section, it should be 17 in line 11.

16 THE PRESIDENT: The obvious error will be
17 corrected in line 11.

18 Proceed.

19 DELEGATE PENNIMAN: We made no changes on
20 57, none on 58, except adding the word "through". I
21 think there was just a dash originally and line 16,

1 Section 15 through 31 makes it clear there.

2 On page 59 we did make a change in Section
3 27 as requested from the floor. There was worry about
4 the placement of the words "Upon the expiration of his
5 term" for fear it might give a wrong reference there so
6 we put it, as requested by the floor, on line 36 on page
7 59. This was at the request of the floor when it was
8 discussed the day before yesterday or yesterday.

9 THE PRESIDENT: What is the change?

10 DELEGATE PENNIMAN: We moved "Upon the
11 expiration of his term" up to line 36 to make clear the
12 reference of it to the judge, to any judge of any court.

13 THE PRESIDENT: The Committee desires to
14 modify its recommendation to remove the italicized words
15 in page 59 and capitalize the first letter of "any".
16 Is there any objection?

17 DELEGATE PENNIMAN: No, we moved the words
18 from 41, "upon the expiration of his term", we moved
19 those to line 36 in connection with the discussion on the
20 floor the other day. We are expunging them as indicated on
21 line 41.

1 THE PRESIDENT: Very well. I understand there
2 will be an amendment redrafting the language of this
3 section. You may proceed.

4 DELEGATE PENNIMAN: Mr. President, on the
5 question you raised a moment ago about the number on
6 Page 55 in Section 14, line 15, you are correct. It should
7 read "Sections 26 through Section 4.30

8 THE PRESIDENT: Very well. The Committee
9 desires to modify page 55, line 15. Is there any objection?

10 There being none, the modification will be made.

11 DELEGATE PENNIMAN: The Committee made no
12 change on page 60 except to capitalize the word
13 "Constitution" in one spot. It made no change on page 61
14 except to change slightly 4 and 5 to be "diminution of
15 the salary or pension of any judge" rather than "diminution
16 of a judge's salary or pension".

17 On page 62 in line 36 we used lower case; we
18 changed some section numbers to correspond with the
19 section numbers now in Article V, I think, correctly.
20 This was all being done about 1:30 this morning.

21 THE PRESIDENT: Delegate Henderson.

1 DELEGATE HENDERSON: I just want to call
2 attention to the misspelling of the word "diminution" on
3 page 61, line 4.

4 THE PRESIDENT: Thank you. The obvious typo-
5 graphical error will be corrected.

6 Delegate Cardin.

7 DELEGATE CARDIN: On page 60, line 13, the
8 "a" in brackets appears to be in italics. Is that
9 correct?

10 THE PRESIDENT: That is a change, move the
11 "a" from after the word "except" to before the word
12 "except".

13 Delegate Gill.

14 DELEGATE GILL: On page 61, is that Section 33
15 instead of 32?

16 DELEGATE PENNIMAN: Cost of judicial system?

17 DELEGATE GILL: No, Clerks of Trial Courts.
18 Will that number stay the same?

19 THE PRESIDENT: 32.

20 DELEGATE GILL: You made a change in 5.35.
21 That doesn't refer to that?

1 THE PRESIDENT: I am not sure that I follow
2 you.

3 DELEGATE PENNIMAN: This is in Section 35?

4 THE PRESIDENT: No, she is talking about
5 section numbers on page --

6 DELEGATE GILL: Pages 36 and 37. You change
7 the section to 5.33 and page 37 changed to 5.32. Will
8 you exchange those back when you get now on pages 60
9 and 61? Will that alter the numbers there?

10 DELEGATE PENNIMAN: If they would be in the
11 same order, yes, I suppose you could alter them.

12 You see, Mr. Chairman, when I changed a few
13 moments ago on the floor the position of Cost of the
14 Judicial System, it moved the position of the Clerk of
15 the Trial Courts to the last position. I don't know that
16 it is necessary to change that one because it is after
17 all in the same general category of some of the lesser
18 officers like registers of wills and of sheriffs, but
19 there is a change that resulted from this and page 62,
20 line 44, Section 5.33 should become Section 5.32.

21 THE PRESIDENT: Is there any objection to

1 modifying the Committee's Recommendation, page 62, line
2 44, change 5.33 to 5.32?

3 Delegate Cardin.

4 DELEGATE CARDIN: Mr. President, it was called
5 to my attention by several delegates that on line 13,
6 page 60, which I had referred to before, it should be
7 explained perhaps that the form was changed and the "a"
8 in parentheses was removed which actually makes a style
9 change for the whole section. It was not simply a removal,
10 but the word "except" previous to that had preceded the
11 "a".

12 THE PRESIDENT: I am not sure I follow you.

13 DELEGATE CARDIN: It changes --

14 THE PRESIDENT: The change in line 13 was to
15 put the "a" in parentheses in front of instead of after
16 the word "except"?

17 DELEGATE PENNIMAN: That is right, but it
18 changed the wording in that. "Except" was to apply
19 originally to all of (a), (b), (c), and (d).

20 THE PRESIDENT: Oh.

21 Delegate Mudd, is that correct?

1 DELEGATE MUDD: No, I don't think so, Mr.
2 President. It is my understanding that the "except"
3 only applied to those courts listed in 29(a) now. Is
4 that your understanding, Delegate Hardwicke?

5 DELEGATE HARDWICKE: Yes, this was an error
6 that was supposed to be picked up yesterday when Delegate
7 Fornos presented this and apparently it was inadvertently
8 passed over. "Except" is after the parentheses.

9 DELEGATE PENNIMAN: We were asked to do it on
10 the floor. It was simply picking up what was made clear on
11 the floor.

12 THE PRESIDENT: Thank you. Revert to page
13 62. There was no objection to the change in line 44.
14 This will be modified to change the section reference from
15 5.33 to 5.32.

16 Proceed.

17 DELEGATE PENNIMAN: "The effect of this section
18 shall terminate", line 48, line 50, the number is changed from
19 3.23 to 3.22.

20 THE PRESIDENT: There were two changes in
21 42 and 43?

1 DELEGATE PENNIMAN: Yes, excuse me. The
2 change of "county's", possessive, to "of a county".

3 On page 64, Section 41 has been changed to
4 40. It should go back to 41.

5 THE PRESIDENT: I am not sure I followed your
6 change.

7 DELEGATE PENNIMAN: Page 64, line 4.

8 THE PRESIDENT: The numeral 4.40 should be
9 changed to 4.04?

10 DELEGATE PENNIMAN: No, it was changed from
11 41 to 40. That was in error. It should revert to 41.

12 THE PRESIDENT: Very well. The Committee
13 desires to modify its report, Page 64, line 4, the section
14 reference 4.40 should be changed to 4.41. Is there any
15 objection?

16 Delegate Bamberger.

17 DELEGATE BAMBERGER: 41?

18 THE PRESIDENT: Section 41, reference to Section
19 40 should be changed to Section 41. Is there any objection?

20 The Chair hears none. The modification will be
21 made.

1 DELEGATE PENNIMAN: Also, the capital letter
2 and section was changed to the small letter. In lines
3 16 and 17 "The effect of this section shall terminate",
4 the numbers in line 20, it is just dropped to "Finance",
5 which is the actual title of Section 600 or 6 that we
6 talked about earlier. The numbers have been changed
7 from 42 to 41 and that is the end of the record.

8 THE PRESIDENT: Now, Schedule of Legislation.
9 Delegate Kiefer.

10 DELEGATE KIEFER: Mr. President, wouldn't
11 it be more consistent if you put what is now Section
12 3(b) entitled Section 9.08 back **two** and make it the very
13 last one?

14 THE PRESIDENT: Which page are you talking
15 about?

16 DELEGATE KIEFER: I am talking about on Page
17 53, you have Section 3, Section 3(b), Section 9(a). This
18 is now a General Provision. I would think logically if
19 you are keeping the sequence of order, this would belong
20 down in General Provisions. It was part of a personal
21 rights section, but it is no longer part of the personal

1 rights section. If you have this in it, you are no longer
2 accurate. I would take the number "b" and substitute it
3 at the very end. Don't call it personal rights because
4 it is no longer personal rights.

5 THE PRESIDENT: The suggestion, I take it, is
6 to transpose Section 3(b) on page 53 and make it Section
7 4.20 on page 64. Do you have any comment, Delegate
8 Penniman?

9 DELEGATE PENNIMAN: It isn't a finance matter
10 either, but there is no equivalent in Section 9. We
11 would have to put in a new caption. That is easy enough.

12 THE PRESIDENT: You would have to strike the
13 "a" in line 5? Delegate Penniman.

14 DELEGATE PENNIMAN: Correct.

15 THE PRESIDENT: Any objection to striking
16 paren "a", end paren, in line 5 and transpose all of lines
17 10, 11, and 12 after striking the paren "b" paren to
18 page 64 as Section 42 under a new caption, General
19 Provisions?

20 The Chair hears no objection.

21 Delegate Penniman.

1 DELEGATE PENNIMAN: Under the circumstances it
2 ought to be "Section 42, Sovereign Immunity" which is what
3 it is about.

4 THE PRESIDENT: Very well, Section 42, Sovereign
5 Immunity.

6 Delegate Mentzer.

7 DELEGATE MENTZER: I think Section 3 becomes
8 "Eminent Domain".

9 THE PRESIDENT: Delegate Penniman.

10 DELEGATE PENNIMAN: You are quite right.

11 THE PRESIDENT: And to make the further change
12 in line 3 the caption would be called "Eminent Domain".
13 Any objection to the changes?

14 The Chair hears none. The report will be
15 modified in those particulars.

16 Delegate Moser.

17 DELEGATE MOSER: Mr. President, on page 83,
18 Section 37, line 20, to be consistent after the word
19 "adopted", might I suggest that the word "only" go in
20 there too?

21 THE PRESIDENT: Very well. Is there any

1 objection to further changing the committee report on
2 page 63, line 20, after the word "adopted", insert the
3 word "only"?

4 The Chair hears none and the report will be
5 considered as so modified.

6 Any other changes?

7 Delegate Grant.

8 DELEGATE GRANT; Mr. President, on page 64
9 in line 6 and in line 13 it refers to Baltimore City and
10 it just says "the city". Inasmuch as Baltimore City will
11 become a county and not a city upon the adoption of this
12 Constitution, might it not be better to just say Baltimore
13 City since it is now a proper name rather than just a city?

14 THE PRESIDENT: I think you are quite correct,
15 Delegate Grant.

16 Do you agree, Delegate Penniman?

17 DELEGATE PENNIMAN: Yes, you are quite right.

18 THE PRESIDENT: In line 6 and in line 13
19 on page 64 add the word "Baltimore" before the word
20 "city". Is there any objection?

21 And strike the word "the" in each instance.

1 If there is no objection, the modification
2 will be made.

3 Any other changes or suggestions?

4 Delegate Henderson.

5 DELEGATE HENDERSON: If I might divert to page
6 53, did you leave in the title "Personal Rights"
7 there?

8 THE PRESIDENT: Delegate Penniman?

9 DELEGATE PENNIMAN: Yes.

10 THE PRESIDENT: You would have to otherwise
11 it would be under the caption "General" even though there
12 would be only one section.

13 Delegate Henderson.

14 DELEGATE HENDERSON: I would like to suggest
15 for what it might be worth, would the other section as
16 to sovereign immunity back under the finance that you
17 might as well put "Eminent Domain" back there too rather
18 than leaving them because they both involve problems of
19 additional financing in one sense.

20 THE PRESIDENT: The reason for this arrangement,
21 if I followed your question, was that it follows the
pattern of the articles themselves.

1 Delegate Hardwicke.

2 DELEGATE HARDWICKE: I think Delegate Henderson
3 has the impression that sub-section (b) was put into
4 "Finance". It is actually put into something called
5 "General Provisions" at the very end.

6 THE PRESIDENT: Yes.

7 Delegate Hardwicke.

8 DELEGATE HARDWICKE: I do think, Mr. President,
9 that the title "Personal Rights" probably ought to be made
10 to conform to the title of the Rights Article which is
11 Declaration of Rights.

12 THE PRESIDENT: Very well. Is there any
13 objection to the suggested modification, line 1, page
14 53, change the caption to "Declaration of Rights"?

15 The Chair hears no objection. The modification
16 will be made.

17 Any further questions?

18 Delegate Lord.

19 DELEGATE LORD: Mr. President, on that same
20 page, I think another change has to be made. When we move
21 that section, old sub-section (b) to the end, that leaves

1 only the old sub-section (a), and I think it should be
2 retitled "Eminent Domain" instead of delayed effect of
3 certain sections.

4 THE PRESIDENT: The modification has already
5 been made.

6 Any further suggestions or changes?

7 If not, we will proceed to the Schedule of
8 Legislation.

9 Delegate Penniman.

10 DELEGATE PENNIMAN: Mr. President, there is an
11 obvious spelling error in "Suffrage" in line 26.

12 DELEGATE KIEFER: Mr. President.

13 THE PRESIDENT: Delegate Kiefer.

14 DELEGATE KIEFER: I have to call your attention
15 that Section 1 under "Personal Rights" is no longer in
16 "Personal Rights". It is under "General Provisions". It
17 started out in "Personal Rights", but it should be back
18 near the end in "General Provisions". You may have to
19 renumber these sections, but to be consistent, it no
20 longer belongs to "Personal Rights" so you can delete the
21 whole thing.

1 THE PRESIDENT: Delegate Penniman.

2 DELEGATE PENNIMAN: This will be renumbering
3 each, but this is quite correct.

4 THE PRESIDENT: Any objection to removing the
5 entire caption and section on page 65, lines 16 to 24 to
6 the sub-title "General Provisions" and appropriately
7 renumbering all sections?

8 The Chair hears none. The modification will
9 be made.

10 Proceed, Delegate Penniman.

11 DELEGATE PENNIMAN: There are no further changes
12 on 65. I might say to the Convention that we did virtually
13 nothing here because this, after all, as the Chairman
14 has pointed out, may be changed by the General Assembly.
15 There are a number of instances, line 6, where section
16 should be reduced. "Candidacy for Secretary of State" and
17 "Secretary of State" on 11 should be lower case and again
18 on line 18 "Secretary" should be lower case.

19 THE PRESIDENT: What was that last one, Delegate
20 Penniman?

21 DELEGATE PENNIMAN: "Secretary of State" on

1 line 18, first on line 11, and then line 18.

2 THE PRESIDENT: I don't think it is necessary
3 to call attention to those that are so obvious that they
4 can be spotted.

5 Delegate Penniman.

6 DELEGATE PENNIMAN: All right, under those
7 circumstances the changes become almost non existent. None
8 on 68, none on 69, except to change "branch" to "House"
9 and "Legislature" to "General Assembly".

10 Several people have called to my attention
11 that the order has been switched in case of comptroller.
12 On line 3, it is Section 4.25 to Article 7, changes
13 only in capitalization of the article.

14 Second heading, Judicial Pensions, the
15 renumbering that resulted will have to be done with the
16 change from No. 1.

17 There is nothing on 73 that I see.

18 There is nothing on 74.

19 Nothing on 75, except two words, changing of
20 "effect" to effectiveness". There is the same type of
21 change on 76, line 11, change the "percent" to "per cent"

1 and on line 26 we put in "county". It has been pointed
2 out to me that on page 70, line 41, --

3 THE PRESIDENT: What page now?

4 Delegate Penniman.

5 DELEGATE PENNIMAN: Page 70 --

6 THE PRESIDENT: Before you go back to that, on
7 77, the Chair is informed that this line 20, the reference
8 ought to be to Section 32 or the number ought to be
9 32 and in line 28 it ought to be 33, and in line 44, it
10 ought to be 44?

11 Delegate Penniman.

12 DELEGATE PENNIMAN: That is correct. They will
13 all have to be renumbered.

14 THE PRESIDENT: All right, page 70.

15 Delegate Penniman.

16 DELEGATE PENNIMAN: Page 70, in line 41, I
17 am told that it should be "Criminal Court of Baltimore"
18 rather than "the Criminal Court of Baltimore City". I
19 don't know this, but Mr. Adkins just suggested it.

20 THE PRESIDENT: Delegate Mudd, do you know
21 whether that is correct?

1 Delegate Hardwicke, do you know?

2 Delegate Mudd.

3 DELEGATE MUDD: I will depend upon Judge
4 Henderson, but I think that is correct, Mr. President.

5 THE PRESIDENT: We will check it. All right.
6 Mr. Adkins informed me he checked it this morning. In
7 line 41 on page 70, strike the word "City". Any objection?

8 The Chair hears none.

9 Delegate Beatrice Miller.

10 DELEGATE BEATRICE MILLER: Mr. Chairman, on
11 page 67, line 15, in case of a tie, since the word "vote"
12 has not been used previously, I think it had better say
13 "tie vote".

14 THE PRESIDENT: What line, Delegate Miller?

15 DELEGATE BEATRICE MILLER: 15.

16 THE PRESIDENT: Delegate Penniman?

17 DELEGATE PENNIMAN: Yes, that is easy enough.

18 THE PRESIDENT: Do you desire to make the
19 change?

20 DELEGATE PENNIMAN: Yes, please.

21 THE PRESIDENT: Line 15, page 67, after the

1 word "tie" insert the word "vote". Is there any objection?

2 The Chair hears none.

3 Delegate Cardin.

4 DELEGATE CARDIN: Chairman Penniman, on page
5 65, line 38, we used the term "registered voters". Is
6 there any reason why this was not changed to "qualified"?

7 THE PRESIDENT: Delegate Penniman.

8 DELEGATE PENNIMAN: There certainly was. We
9 didn't look this over carefully enough. It should be
10 "qualified voters".

11 THE PRESIDENT: Delegate Cardin.

12 DELEGATE CARDIN: Thank you.

13 THE PRESIDENT: Any objection to changing
14 "registered" to "qualified"?

15 The Chair hears none. The modification will
16 be made.

17 Anything further?

18 Delegate Grant.

19 DELEGATE GRANT: On page 67, line 44, there are
20 now twenty-four instead of twenty-three counties.

21 THE PRESIDENT: Very well, Delegate Penniman,

1 you agree to the change?

2 DELEGATE PENNIMAN: I agree.

3 THE PRESIDENT: Line 44, page 67, "twenty-three"
4 should be changed to "twenty-four". Any objections?

5 Delegate Hardwicke.

6 DELEGATE HARDWICKE: May I just suggest that
7 you strike the number altogether?

8 THE PRESIDENT: All right. A suggestion is
9 made that in line 44, page 67, strike the number "twenty-
10 three". Is there any objection?

11 There is none; the modification is made.

12 Delegate Grant.

13 DELEGATE GRANT: On line 20 on page 66, it
14 says "countv or counties, including Baltimore City"
15 which, I think, would be unnecessary now.

16 THE PRESIDENT: Delegate Penniman.

17 DELEGATE PENNIMAN: That is correct.

18 THE PRESIDENT: Delegate Grant.

19 DELEGATE GRANT: It is in parentheses. I
20 suggest it be stricken.

21 THE PRESIDENT: Just a second.

1 Delegate Grant, Mr. Miller, staff advisor to
2 the Committee, suggests to the Chair that it is improper
3 to make these changes because the definition of county,
4 including Baltimore City, is in the Constitution and it
5 says in this Constitution that shall be the case. That
6 is not carried over to Article 1 of the Code where the
7 definitions are so that they have consistently followed
8 the practice in the Schedule of Legislation of referring
9 to Baltimore City separately. It occurs to the Chair that
10 that it proper until the definition is incorporated in
11 Article 1 of the Code.

12 Delegate Grant.

13 DELEGATE GRANT: In that case, we are going to
14 have lots of trouble because we are consistently referring
15 to counties --

16 THE PRESIDENT: That is true in the Constitution.

17 Delegate Grant.

18 DELEGATE GRANT: The same situation occurs on
19 page 76. There it is specifically spelled out that
20 Baltimore City is included.

21 That would seem to reenforce the point made

1 by Delegate Miller.

2 In that case, I might suggest that we might
3 have to go through the whole thing and say "counties,
4 including Baltimore City" unless we put a general saving
5 clause at the beginning of it. We have used "counties"
6 innumerable times through the Schedule and included Baltimore
7 City without saying "counties, including Baltimore City".

8 THE PRESIDENT: Delegate Hardwicke.

9 DELEGATE HARDWICKE: We had the same problem
10 with the phrase "prior Constitution". On page 69, line
11 52, we used that phrase and it is not defined in the
12 Schedule of Legislation. It is defined in the Transitional
13 Provisions. If this raises a problem, I would have given
14 a contrary opinion from that which you gave, Mr. President,
15 that the definition in the Constitution would carry over,
16 but if there is any question about it, then I would suggest
17 that we include two definitions in the Schedule.

18 One definition would define "counties" as
19 including Baltimore City, and the other one would define
20 "prior Constitutions".

21 THE PRESIDENT: The Chair would concur in your

1 first recommendation, but I think it would be dangerous to
2 include the statute because you would be in statutes
3 referring to prior Constitutions.

4 It might be clear so far as this Schedule is
5 concerned. I don't know.

6 Does the phrase "prior Constitution" occur
7 more than one time when the Committee has corrected it,
8 or does reference to the Constitution occur more than
9 one time?

10 Delegate Grant.

11 DELEGATE GRANT: It occurs on page -- I am
12 sorry. I am in error.

13 THE PRESIDENT: Delegate Marion.

14 DELEGATE MARION: I think the words "prior
15 Constitution" and "this Constitution" occur several times
16 in the course of the various provisions.

17 THE PRESIDENT: I will request the staff
18 working on this to prepare immediately an amendment to
19 incorporate in the Schedule of Legislation, a definition
20 of "prior Constitution" and a definition to say "county"
21 includes Baltimore City, and to make such other changes

1 in the Schedule that are necessary to conform.

2 Any other questions?

3 Delegate Chabot.

4 DELEGATE CHABOT: Page 65, line 39 in Section
5 2, the phrase in parentheses which is carried over from
6 the present Constitution?

7 THE PRESIDENT: I must have misunderstood you.
8 You say page 65, line 39?

9 DELEGATE CHABOT: Line 39.

10 THE PRESIDENT: Page 65?

11 Delegate Chabot.

12 DELEGATE CHABOT: The phrase "as the case may be".
13 Did I say in parentheses? The phrase "as the case may be"
14 within the commas is carried over from the old Constitution
15 because the old Constitution referred to the county or
16 Baltimore City as the case may be. Since we no longer
17 have the reference to Baltimore City, I think there is no
18 further need for that phrase.

19 THE PRESIDENT: It seems to the Chair that is
20 correct. Do you agree, Delegate Hardwicke?

21 DELEGATE HARDWICKE: Yes, I do, Mr. President,

1 and the same problem arises on page 69 in line 34. That
2 reference to Baltimore City should be stricken, the
3 whole line, as a matter of fact, should be stricken.

4 THE PRESIDENT: Is there any objection to
5 modifying the committee recommendation to strike out of
6 line 39 on page 65 the phrase "as the case may be"?

7 The Chair hears none. The modification will
8 be made. Is there any objection to modifying the
9 Committee's report so as to strike out on page 69 all of
10 line 34?

11 The Chair hears none. The modification will be
12 made.

13 I take it that we would also, in that event,
14 strike the comment after the word "occurs" in line 33
15 on page 69? The modification will be made.

16 Delegate Hardwicke.

17 DELEGATE HARDWICKE: Mr. President, there may
18 be some more of these and we may not be picking them all
19 up in this.

20 THE PRESIDENT: Yes, I want Mr. Adkins and Mr.
21 Miller in preparing the amendments suggested to go

1 through carefully and try to pick these up.

2 Delegate Hardwicke.

3 DELEGATE HARDWICKE: I see another one on
4 page 70, lines 44 and 45, the reference to Baltimore
5 City should be stricken.

6 THE PRESIDENT: Any objection to striking the
7 words "or Baltimore City" in lines 44 or 45 on page 70?

8 The Chair hears none.

9 Delegate Henderson.

10 DELEGATE HENDERSON: If we might revert for a
11 moment to page 66, line 19, there is a reference to such
12 county or counties. I don't find any such previous
13 reference to a county for which the "such" would go back
14 although it is probably implicit in the candidate for
15 continuance in office, but I think stylistically, there
16 ought to be perhaps some change there.

17 THE PRESIDENT: I will have the problem called
18 to the attention of the staff. They will pick it up in
19 connection with the amendments that they are preparing.

20 Delegate Clagett.

21 DELEGATE CLAGETT: Mr. President, on page 75,

1 line 1 and 2 and 3, the phrase "at any time" should appear
2 after the word "appoint". That is the phrase "at any
3 time" in line 3. It should be moved up to line 2 following
4 the word "appoint".

5 THE PRESIDENT: I would suggest it would
6 read better if you said "may at any time appoint".

7 Delegate Clagett.

8 DELEGATE CLAGETT: I agree.

9 THE PRESIDENT: Is there any objection to
10 modifying the phrase in lines 2 and 3 to transfer the
11 phrase "at any time" in line 3 to line 2 after the word
12 "may", inserting the proper punctuation?

13 Delegate Miller, I know you are splitting the
14 verb. Do you still object?

15 DELEGATE EDWARD MILLER: The Style Committee
16 objects.

17 THE PRESIDENT: Which do you prefer?

18 Delegate Clagett.

19 DELEGATE CLAGETT: "May appoint at any time".

20 THE PRESIDENT: Any objection to moving that
21 phrase?

1 Delegate Storm.

2 DELEGATE STORM: I just have a question.

3 It is in reference to this. Does that "at
4 any time" modify the time or the appointment?

5 THE PRESIDENT: Appointment. That is why the
6 change is suggested.

7 Delegate Storm.

8 DELEGATE STORM: All right.

9 THE PRESIDENT: Delegate Hardwicke.

10 DELEGATE HARDWICKE: Mr. President, are you
11 finished with that subject?

12 THE PRESIDENT: Yes.

13 No, I am not. Is there any objection to the
14 modification?

15 The Chair hears none. The modification will
16 be made. The phrase "at any time" in line 3 on page 75
17 will be inserted in line 2 after the word "appoint" with
18 the appropriate punctuation.

19 Delegate Hardwicke.

20 DELEGATE HARDWICKE: Mr. President, on page
21 69, line 30, I would strike the phrase "or city".

1 THE PRESIDENT: Is there any objection to
2 striking line 30, page 69, the phrase "or city"?

3 The Chair hears none. The modification will
4 be made.

5 Delegate Hardwicke.

6 DELEGATE HARDWICKE: Mr. President, on page
7 76, the sentence in lines 26 and 27, it should be deleted
8 since you are going to have an overall definition which
9 will include that concept.

10 THE PRESIDENT: Any objection to the deletion
11 of lines 26 and 27 on page 76?

12 The Chair hears none. The modification will
13 be made.

14 Delegate Cardin.

15 DELEGATE CARDIN: On page 74, Mr. President,
16 line 5, we have another "registered voter" which, I believe,
17 should be changed to "qualified".

18 THE PRESIDENT: Would you state that again,
19 please?

20 DELEGATE CARDIN: Page 75, line 5, "registered
21 voter", I believe, should be changed to "qualified".

1 THE PRESIDENT: Delegate Penniman, do you
2 agree?

3 DELEGATE PENNIMAN: That is correct.

4 THE PRESIDENT: Any objection to changing the
5 word "registered" on line 5 to page 75 to "qualified"?

6 The Chair hears none. The change will be
7 made.

8 Delegate Marion.

9 DELEGATE MARION: On page 65, line 49, the
10 same typographical error has been carried over from
11 the blue pages to the green. "Guardianship" should begin
12 with a "g", not a "q".

13 THE PRESIDENT: Obvious. The obvious typo-
14 graphical error will be corrected, line 49, page 65.

15 Delegate Storm.

16 DELEGATE STORM: Page 69, line 30, we just
17 strike, as I understand it, the word or words "or city",
18 "county or city"?

19 THE PRESIDENT: That is correct.

20 Delegate Storm.

21 DELEGATE STORM: Shouldn't that be county or

1 district because back in the executive section it states
2 an attorney can come from a county or district.

3 THE PRESIDENT: Delegate Clark.

4 DELEGATE CLARK: That is true.

5 THE PRESIDENT: Delegate Penniman.

6 DELEGATE PENNIMAN: There is a reference to
7 county or district in 4.35 so I think it probably would
8 be correct.

9 THE PRESIDENT: The modification in line 30,
10 page 69, after the word "county", add the word "or
11 district". Is there any objection?

12 The Chair hears none. The modification will
13 be made.

14 Delegate Storm.

15 DELEGATE STORM: I think later on in the same
16 section, line 33, just glance at that a minute, and just
17 see if that should be changed. Yes, I believe it should.
18 We should have after the word "county" in line 33 "or
19 district".

20 THE PRESIDENT: I am not at all sure.

21 Delegate Hardwicke.

1 DELEGATE HARDWICKE: I guess I should yield
2 to Delegate Mudd. Is it possible that you would have
3 judges in the district? If not, then I suggest this to
4 Delegate Storm, but then it would be probably out of order
5 unless you had judges in the district..

6 THE PRESIDENT: This is a reference to a judge
7 in a superior court and that would mean in the county.

8 Delegate Clagett.

9 DELEGATE CLAGETT: The only judge in the
10 district would be the district judge and we don't mean
11 for him to make the appointment.

12 THE PRESIDENT: All right.

13 Delegate Sollins.

14 DELEGATE SOLLINS: How about line 34?

15 THE PRESIDENT: The whole line 34 is stricken.

16 Delegate Grant.

17 DELEGATE GRANT: On page 78, lines 10 and 11,
18 I am not sure we mean exactly what we say and we also
19 might be saying too much. If you will start back at line
20 9, "not more than one may be published, then in that
21 newspaper and in three newspapers published in the City of

1 Baltimore". I don't mean if there is only one newspaper
2 you have to publish it in three newspapers in addition
3 to that one. Three newspapers in Baltimore are referring
4 to Baltimore being treated as a city, not a county, and
5 that entire section from "and" can possibly be stricken.

6 THE PRESIDENT: I think your point is well
7 taken, but I don't think it can be picked up by style
8 change.

9 Would you be able to draft an amendment to
10 pick up a point. It seems obvious that the latter part
11 of the phrase in lines 10 and 11 is not intended to modify
12 the immediately preceding phrases and it needs some
13 rearrangement of the entire section.

14 Delegate Marion.

15 DELEGATE MARION: Mr. President, back on
16 page 69 in Section 12 where we have the problem of
17 district, in line 33 after the word "county", would it not
18 be technically correct to add the words "or within the
19 district"? There would be, I would think, superior
20 court judges resident within a district, a state attorney's
21 district.

1 THE PRESIDENT: The Chair really thinks that
2 the change that we made by adding the word "district"
3 are really unnecessary and serve only to confuse the
4 issue. We are not talking here about the provision of the
5 Constitution, but of legislation, and if we are going to
6 try to draft a section that would be applicable if the
7 legislature creates districts as well as applicable if
8 state's attorneys are going to be elected by counties,
9 then obviously we are going to have to make much more
10 extensive changes than are contemplated, and I would think
11 since states attorneys are now elected by counties, that
12 we could assume for purposes of this legislation that
13 would continue and that the legislature would make
14 further changes if and when it provided for states
15 attorneys by districts.

16 Delegate Marion.

17 DELEGATE MARION: Should we not then delete
18 the modification?

19 THE PRESIDENT: That is what I am suggesting.
20 Is there any objection to deleting the modification as
21 heretofore made?

1 The Chair hears none. The modification
2 previously made is rescinded.

3 Any other question?

4 Delegate Stern.

5 DELEGATE STERN: Page 75 on line 5, the word
6 "percent" was struck and made into two words. I don't
7 know which is correct because on line 7 the word
8 "percent" is one word and my old dictionary has it as
9 one word.

10 THE PRESIDENT: You want to get it uniformly
11 into two?

12 Delegate Penniman.

13 DELEGATE PENNIMAN: That is correct. It should
14 be three per cent, two words.

15 THE PRESIDENT: May I ask why two words?

16 Delegate Penniman.

17 DELEGATE PENNIMAN: In our dictionary it gave
18 it only as two words, percentage as one, but per cent as
19 two.

20 THE PRESIDENT: Just a second.

21 Any objection as to a modification? Is this

1 as to the same modification?

2 Delegate Stern.

3 DELEGATE STERN: Yes. Perhaps you used a
4 larger dictionary and it used it only as one word and it
5 says that earlier it was used as two words.

6 THE PRESIDENT: Delegate Penniman.

7 DELEGATE PENNIMAN: It is two words in the
8 big dictionary we are using. Also, in the U. S. Govern-
9 ment Style **Manual**.

10 THE PRESIDENT: Any objection to changing
11 "percent" as one word into two words on line 8, page
12 75?

13 The Chair hears none so the change is made.

14 Delegate Cardin.

15 DELEGATE CARDIN: On line 8 I overlooked another
16 "registered" that should be changed to "qualified".

17 THE PRESIDENT: Any objection to changing
18 "registered" on line 8, page 75, to the word "qualified"?

19 The Chair hears none. The change will be made.

20 Page 75, line 8, the word "registered" is
21 changed to "qualified".

1 Any other changes?

2 Delegate Ulrich.

3 DELEGATE ULRICH: On page 76 on line 11 there,
4 there is "registered voters" again.

5 THE PRESIDENT: Change the word "registered"
6 to "qualified" on line 11, page 76. Is there any objection?

7 The Chair hears none. The modification will
8 be made.

9 Any other changes or suggestions?

10 Delegate Mudd.

11 DELEGATE MUDD: Mr. President, on page 59,
12 in line 22, the matter to which Judge Henderson referred has
13 already be brought to our attention, and an amendment has
14 already been prepared so there is no need to refer to
15 that question to staff.

16 THE PRESIDENT: You mean in Section 12?

17 Delegate Mudd.

18 DELEGATE MUDD: Section 26 on page 59.

19 THE PRESIDENT: Oh, I am sorry.

20 Delegate Mudd.

21 DELEGATE MUDD: In line 22, he called your

1 attention to the word "such" and you said you would refer
2 it to staff. There should be on your desk already an
3 amendment to correct that line.

4 THE PRESIDENT: Very well.

5 Any other suggestions as to the Schedule of
6 Legislation?

7 The Chair hears none.

8 Page 66, line 19, the staff suggests that the
9 word "such" be changed to the word "the" and they will
10 prepare an amendment with respect to Baltimore City.

11 Any objection?

12 If not, the modification will be made.

13 Delegate Marion.

14 DELEGATE MARION: On page 75, line 45, we refer
15 to Section 7.04. I think it should be followed by the
16 words "of the Constitution" which is consistent with the
17 way that has been handled elsewhere in the Schedule.

18 THE PRESIDENT: Any objection to the modifi-
19 cation suggested? The Chair hears none.

20 Page 75, line 45, after Section 7.04, insert
21 the words "of the Constitution".

1 Any other suggestions?

2 Delegate Miller?

3 DELEGATE BEATRICE MILLER: Mr. President, I
4 have to go all the way back to page 5. Is this the time
5 to do so?

6 THE PRESIDENT: Let me finish the Schedule
7 of Legislation first.

8 Delegate Clagett.

9 DELEGATE CLAGETT: Mr. Chairman, page 75, line
10 3, where we say not to exceed nine. Do you think we ought
11 to have members or persons there so that it couldn't
12 possibly mean nine charter boards? It seems obvious,
13 but it does read funnily.

14 THE PRESIDENT: The Chairman suggests that it
15 would be better constructed if after "board" we insert
16 the word "of" and after "nine" we insert "members". Is
17 there any objection?

18 If not, the modification will be made. Page
19 75, line 2, after the word "board", insert the word
20 "of". In line 3 after the word "nine", insert the word
21 "members".

1 Any other suggestions as to the Schedule of
2 Legislation?

3 Delegate Beatrice Miller?

4 DELEGATE BEATRICE MILLER: Mr. Chairman, on
5 page 5 on Section 2.01, I was looking at line 22, and it
6 seemed to me that there should be a comma after the
7 word "election" on line 22 and to be absolutely explicit
8 that both phrases "shall be eligible to vote" that on
9 line 19 after the word "years", the word "and" should be
10 included.

11 THE PRESIDENT: Well, give me the first change
12 again. Comma where?

13 Delegate Beatrice Miller.

14 DELEGATE BEATRICE MILLER: After the word
15 "election" on line 22.

16 THE PRESIDENT: Do you agree, Delegate
17 Penniman?

18 DELEGATE PENNIMAN: Yes, that will be
19 acceptable.

20 THE PRESIDENT: Any objection to inserting a
21 comma at the end of line 22 on page 5?

1 The Chair hears none. The modification will
2 be made.

3 What is the second one?

4 Delegate Miller.

5 DELEGATE BEATRICE MILLER: On line 19 of the
6 same page, after the words "nineteen years", and "who
7 has", insert the word "and".

8 THE PRESIDENT: Delegate Penniman?

9 DELEGATE PENNIMAN: That is acceptable.

10 THE PRESIDENT: Is there any objection to the
11 further modification on line 19, page 5? Someone objects?

12 Delegate Marvin Smith.

13 DELEGATE MARVIN SMITH: Mr. President, I am
14 not at all sure that it belongs there. I think that
15 the comma employs the "and".

16 THE PRESIDENT: If there is an objection, the
17 change cannot be made except by amendment.

18 Anything further?

19 Delegate Burgess.

20 DELEGATE BURGESS: Since we are on this
21 draft, I wonder if I can refer to lines 38 and 39 on

1 page 4 of Section 1.16. From the discussion I had with
2 Professor Penniman, it would appear that the word
3 "any" on line 38 was required by the presence of the
4 word "that" on line 39. I was wondering if we could delete
5 both of these words without changing the substance of this
6 particular section and clear up any misgivings or possible
7 misinterpretations of the word "any" in this instance.

8 THE PRESIDENT: I am not sure that I followed
9 your change. Would you give it to us again.

10 Delegate Burgess.

11 DELEGATE BURGESS: I was suggesting the possi-
12 bility of changing on line 38 -- the deletion of the
13 style change which included the word "any" and which was
14 apparently required by the presence of the word "that"
15 on line 39.

16 According to the discussion with Professor
17 Penniman, the presence of the word "that" required for
18 smoothness the insertion of the word "any" which does
19 give a little trouble to some of us that are reading this,
20 and I wonder if we could delete on line 38 the word
21 "any" and on line 38 the word "that" and still retain the
smoothness and continuity and not change the substance as
adopted by the Committee of the Whole.

1 THE PRESIDENT: I must confess that I don't
2 follow what is troubling you, Delegate Burgess. The
3 sentence as you, or the clause of the sentence as you would
4 modify it would read "subject to reasonable limitations
5 and restrictions, the General Assembly may prescribe by
6 law, and the way it is now is "subject to any reasonable
7 limitations and restrictions that the General Assembly
8 may prescribe by law."

9 It seems to the Chair grammatically the way
10 it is is much to be preferred and I can't understand the
11 difference in substance or why you are concerned about the
12 difference in substance, any difference.

13 DELEGATE BURGESS: Mr. President, the problem
14 that has been encountered here, quite frankly I can read
15 it two ways, as I am sure the Chair can, but the problem
16 is that there is at least in the mind of some of the
17 delegates, a suggestion, the word "any" has a connotation
18 which would tend to possibly broaden interpretation of
19 this section beyond what was intended by the Committee of
20 the Whole.

21 THE PRESIDENT: How can it broaden? This is

1 where I lost you.

2 DELEGATE BURGESS: I can see arguments on both
3 sides. However, since there is a question of interpretation
4 arising in some minds I wonder if we might clarify it.
5 The "any", I feel, modifies "limitations", but there was the
6 suggestion here that "any" would mean unlimited although
7 this was suggested as a distinct probability.

8 THE PRESIDENT: I am disturbed at your suggestion
9 because it seems to me that it raises a question that I did
10 not think existed. It was my understanding from the
11 discussion on the floor that the purpose of this clause was
12 to indeed to give the General Assembly in a sense unlimited,
13 except as limited by the word "reasonable", power to
14 prescribe limitations, any they chose to prescribe. Is
15 that not the situation?

16 DELEGATE BURGESS: That is correct. With that
17 interpretation I am sure that all minds will be put at ease
18 in this area, if that is spread on the record and is
19 considered as the legislative intent, if you will, here,
20 I am sure everybody would be satisfied.

21 THE PRESIDENT: So far as the Chair is concerned,

1 I think the intent of the clause in lines 38 to 40, on
2 page 4, what is to confer upon the General Assembly the
3 power to prescribe by law any and all limitations and
4 restrictions that the General Assembly might desire to
5 prescribe, subject to the reasonableness of the limitations
6 and restrictions, as prescribed in this line.

7 DELEGATE BURGESS: So should there be a judicial
8 test, it would be that of reasonableness.

9 THE PRESIDENT: The only test is that of
10 reasonableness.

11 DELEGATE BURGESS: That satisfies, I think, the
12 problem. Thank you.

13 THE PRESIDENT: Delegate Bamberger.

14 DELEGATE BAMBERGER: Mr. President, page 75,
15 lines 2 and 3, I am a little bothered by the language
16 suggested by the Chair, as I understood it, the awkwardness
17 of it, that would read "appoint a charter board of not to
18 exceed nine members at any time."

19 THE PRESIDENT: That is correct. No. Appoint
20 at any time a charter board of not to exceed nine members.

21 DELEGATE BAMBERGER: I am bothered by the "of

1 not to exceed nine members." Would it read better if it
2 was "of not more than"?

3 THE PRESIDENT: It would to me. Do you want to
4 suggest the modification?

5 DELEGATE BAMBERGER: I suggest that.

6 THE PRESIDENT: Is there any objection to chang-
7 ing the words "not to exceed" in line 2, page 75, to the
8 words, or change the words "to exceed" to the words "more
9 than" so it would read, "of not more than nine members"?
10 Any objection?

11 The Chair hears none. The modification will be
12 made.

13 Delegate Marvin Smith:

14 DELEGATE MARVIN SMITH: Mr. President, I desire
15 to withdraw my objection to that word "and" on line 19, of
16 page 5. Upon further reflection, I think perhaps it would
17 prolong it, but it belongs there, but may I suggest to you,
18 sir, some of this is going a little far.

19 THE PRESIDENT: Is there any objection to insert-
20 ing on line 19, page 5, following the comma, after the
21 word "years" the word "and"?

1 The Chair hears none. The modification will be
2 made.

3 Any further changes?

4 Delegate Mentzer.

5 DELEGATE MENTZER: It is very understandable,
6 Mr. Chairman, why the members are more fresh today than the
7 members were last night past midnight. It is more our
8 concern for the beautiful documents in putting in commas
9 that is taking so long.

10 I would like to call your attention to two
11 places on page 8, one at line 23, where I believe to be
12 consistent it should say "three fifths of all the members",
13 and also on line --

14 THE PRESIDENT: Wait just a second.

15 Is there any objection in line 23, page 8, to
16 insert the word "all" after the word "of"?

17 The Chair hears none. The modification will be
18 made.

19 DELEGATE MENTZER: Also page 8, line 44, we
20 changed "Prescribed" to "provided" and I think we did it in
21 error. Definitely it is a time to be prescribed in the law.

1 THE PRESIDENT: Delegate Penniman.

2 DELEGATE PENNIMAN: That is page 8, line what?

3 DELEGATE BAMBERGER: Forty-four.

4 THE PRESIDENT: I think your point is well taken.

5 Delegate Penniman.

6 DELEGATE PENNIMAN: Yes.

7 THE PRESIDENT: Any objection to changing the
8 word "provided" on page 8, line 44, to the word "prescribed"?

9 Delegate Weidemeyer.

10 DELEGATE WEIDEMEYER: I do object because I don't
11 think it prescribes such a thing. I think it is provided
12 and I think provided is correct and therefore I object.

13 THE PRESIDENT: The point, Delegate Weidemeyer,
14 is that since the date would be a precise date, it would be
15 a prescribed. Do you follow that?

16 In other words, the point made by Delegate
17 Mentzer is that a later time, if a later time is prescribed,
18 it would be prescribed because it would be a precise date,
19 and therefore it would not be providing for a later time.

20 Delegate Weidemeyer.

21 DELEGATE WEIDEMEYER: I think it is providing

1 for it to take effect.

2 THE PRESIDENT: That is your thought. You were
3 reading it differently. A suspended law which is not
4 repealed shall take effect thirty days after the referendum,
5 or at a later time; if prescribed in the law to refers to
6 the time, and not to the first part of the sentence.

7 DELEGATE WEIDEMEYER: I withdraw my objection.

8 THE PRESIDENT: Thank you.

9 Any objection to changing the word "provided"
10 to "prescribed", line 44, page 8?

11 The Chair hears none. The change will be made.

12 Delegate Mentzer.

13 DELEGATE MENTZER: While I am doing so well,
14 Mr. President, I would like to call attention to page 49,
15 Incorporation Charters, and on line 16, there is a comma
16 after the word "provided". It seems completely unnecessary.

17 THE PRESIDENT: Where?

18 DELEGATE MENTZER: Page 49, line 16, after the
19 word "provided" at the end of the line.

20 THE PRESIDENT: Delegate Penniman, do you agree?

21 DELEGATE PENNIMAN: I think it can be removed.

1 THE PRESIDENT: In the absence of objection, the
2 comma after the word "provided" in line 16, on page 49, will
3 be removed.

4 The Chair hears no objection. The modificiation
5 will be made.

6 Delegate Mentzer.

7 DELEGATE MENTZER: I think my final point is the
8 use of "The State" vs. "This State", and I just think we
9 have been inconsistent in the way we have done it. I don't
10 know whether we have had a rationale or not. I don't intend
11 to go through and find it. I wonder if the Committee in
12 giving final consideration to it might consider it.

13 I noted on page 46, line 2, "people of this State",
14 and it seems we should say "the State". There may be other
15 cases similar to this.

16 THE PRESIDENT: What line is that on page 46?

17 DELEGATE MENTZER: Line 2.

18 THE PRESIDENT: I think probably we have used it
19 both ways, Delegate Mentzer.

20 Delegate Mentzer.

21 DELEGATE MENTZER: We have used it both ways

1 usually because there was some distinction we were trying
2 to make and I just have to check the other uses to be sure.
3 In this case I would think it should be "the State".

4 THE PRESIDENT: Delegate Penniman.

5 DELEGATE PENNIMAN: I am sorry, I didn't get it.

6 THE PRESIDENT: The change suggested, page 46,
7 line 2, change the word "this" to the word "the".

8 DELEGATE PENNIMAN: I would see no objection to
9 the way it is now myself. I would prefer to keep it as is.

10 THE PRESIDENT: Very well.

11 Delegate Boyles.

12 DELEGATE BOYLES: Mr. President, on page 75,
13 line 45, we have an amendment to say Section 7.04 in the
14 Constitution. Would it not just pay to advertise a little
15 bit and say 1967, which is I am sure what we mean?

16 THE PRESIDENT: Delegate Penniman.

17 DELEGATE PENNIMAN: If we were going to say I
18 suppose we would say 1968, but the Constitution in effect
19 when this goes into effect will be the one we are adopting
20 so I think "The Constitution" would cover it.

21 THE PRESIDENT: You make the decision.

1 DELEGATE PENNIMAN: I say no.

2 THE PRESIDENT: Any change would have to come
3 by amendment.

4 Any other suggestion?

5 Delegate Scanlan.

6 DELEGATE SCANLAN: Mr. Chairman, I for one think
7 we have carried this amending frolic a little far. You
8 have indicated the staff was going to read the draft,
9 and especially, I guess, the scheduled legislation with a
10 close eye and most of these matters certainly could be
11 picked up there. A number of them are duplicitous. I wish
12 we could get to the matters of substance. (Applause)

13 THE PRESIDENT: The Clerk will ring the quorum
14 bell.

15 The Chair has several announcements.

16 If any delegates desire to have accommodations
17 for sleeping this evening, you may ask a page to contact
18 Mr. Sullivan at the Maryland Inn right away, or as soon as
19 you possibly can. He can take care of you for the time
20 being. If we do not have protracted debate, we should be
21 able to conclude the roll call within a reasonable period,

1 I believe.

2 The session has already consumed about four
3 times as much time as we had contemplated would be consumed
4 in doing this, but it is important work. It is also not
5 only important, but vital that the delegates remain until
6 we finish.

7 We have snow warnings. It is snowing heavily
8 now. It is supposed to accumulate to something between
9 four and seven inches by tomorrow. This does not mean that
10 we have to stop all activity. This work is much too
11 important for us to be dissuaded.

12 The Chair proposes to continue without recess
13 for dinner until we finish the voting, unless it becomes
14 so protracted, and the warnings that we receive from the
15 weather bureau and the State Police Department indicate
16 to the officers that the situation is really becoming
17 hazardous.

18 The question arises on the adoption of the
19 amendment proposed by the Committee on Style with respect
20 to all of Committee Report S&E-18. This means all of the
21 style amendments on the preamble to the Constitution,

1 all ten articles, the schedule of transitional provisions,
2 and the schedule of legislation.

3 Is there any discussion?

4 Are you ready for the question?

5 The question arises on the adoption of all of
6 the amendments and modifications proposed by the Committee
7 on Style with respect to Committee Report S&E-18.

8 A vote Aye is a vote in favor; a vote No is a
9 vote against.

10 Cast your votes.

11 Has every delegate voted?

12 Does any delegate desire to change his vote?

13 The Clerk will record the vote.

14 There being 124 votes in the affirmative and
15 none in the negative, the motion is carried. All the
16 amendments proposed by the Committee on Style and the
17 modifications from Committee Report S&E-18 are adopted.

18 The question now arises on the adoption of the
19 various provisions and articles of the Constitution and
20 of the several schedules. In accordance with the previous
21 announcement these will be first open to amendment,

1 division by division or article by article.

2 Are there any amendments to the preamble?

3 (There was no response.)

4 THE PRESIDENT: The Clerk will please ring the
5 quorum bell again.

6 The Chair proposes to follow the rule that if
7 an article is open for amendment and amendments have been
8 received or none have been offered and we have passed on to
9 another article and a delegate has been out of the chamber
10 and returns to the chamber to offer an amendment to a
11 previous article, the Chair will rule it out of order,
12 unless the ruling of the Chair is overturned. (Applause)

13 Any amendments to the preamble?

14 The Chair hears none.

15 Are there any amendments to Article 1?

16 The Chair has one amendment to Article 1.

17 Delegate Gallagher, do you desire to offer your
18 amendment F?

19 DELEGATE GALLAGHER: I do, Mr. President.

20 THE PRESIDENT: Will the pages please distribute
21 Amendment F?

1 This will be Amendment No. 1.

2 The Clerk will read the amendment.

3 MR. QUILLEN: Amendment No. 1 to Report No.

4 S&D-18 by Delegate Gallagher:

5 "on page 5 Section 1.17. Continuity of Government
6 During Emergencies in line 2 strike out the words: "con-
7 tinuity of".

8 THE PRESIDENT: The amendment submitted by
9 Delegate Gallagher is submitted by Delegate Gallagher.

10 Is there a second?

11 (Whereupon, there was a second.)

12 THE PRESIDENT: The amendment has been seconded.

13 The Chair recognizes Delegate Gallagher.

14 DELEGATE GALLAGHER: Mr. President, Ladies and
15 Gentlemen of the Convention: You will remember that this
16 section pertains to continuity of Government during emer-
17 gencies. If you will read it carefully, this is the latest
18 complete amendment to this section, and beginning with the
19 second sentence on page 4, line 49, "any suspension shall
20 be for the period of the emergency only, and only provisions
21 of this Constitution concerning continuity of state and

1 local public offices and governmental operations may be
2 suspended," is the way it reads presently.

3 In actuality, there are no provisions in the
4 Constitution concerning continuity of state and local public
5 offices and operations, the purpose of this section being
6 to provide continuity.

7 Therefore, in order to read the sentence in
8 its proper way, we should eliminate the "continuity of"
9 so that the sentence will now read "any suspension shall be
10 for the period of the emergency only and only provisions
11 of this Constitution concerning state and local public
12 offices and governmental operations may be suspended",
13 will be the final way it would read if this amendment were
14 adopted.

15 I think it is an obvious change and I would hope
16 it would be approved.

17 THE PRESIDENT: Delegate Hardwicke.

18 DELEGATE HARDWICKE: I only point out to Delegate
19 Gallagher that there is a section in the Constitution
20 pertaining to continuity. It is this section.

21 THE PRESIDENT: Delegate Gallagher.

1 DELEGATE GALLAGHER: That is the purpose of this
2 section, and consequently it is not necessary to talk about
3 provisions of this Constitution concerning continuity
4 because this is the section.

5 THE PRESIDENT: Any discussion?

6 Delegate Willoner.

7 DELEGATE WILLONER: Will Delegate Gallagher
8 yield to a question?

9 THE PRESIDENT: Delegate Gallagher?

10 DELEGATE GALLAGHER: Yes.

11 THE PRESIDENT: Delegate Willoner.

12 DELEGATE WILLONER: Since we are striking out
13 the only word in the section that refers to the continuity,
14 is it not correct that the Legislature could only provide
15 for the suspension to insure continuity of government?

16 THE PRESIDENT: Delegate Gallagher.

17 DELEGATE GALLAGHER: That is correct. That is
18 the precise reason for the section.

19 THE PRESIDENT: Any further discussion?

20 Are you ready for the question?

21 The question arises on the adoption of Amendment

1 No. 1.

2 A vote Aye is a vote in favor of the amendment;
3 a vote No is a vote against.

4 Cast your vote.

5 Has every delegate voted?

6 Does any delegate desire to change his vote?

7 The Clerk will record the vote.

8 There being 115 votes in the affirmative and
9 five in the negative, the motion is carried. The amendment
10 is adopted.

11 Are there any amendments to Article 1?

12 The Chair hears none.

13 Are there any others?

14 The Chair hears none.

15 Article 2 is now open to amendment. Are there
16 any amendments?

17 The Chair has none.

18 Delegate Byrnes.

19 DELEGATE BYRNES: Mr. Chairman, I don't have
20 this in writing unfortunately. I just noticed, this
21 borders on a style amendment, but I would like to offer it

1 at this time, if I might.

2 THE PRESIDENT: State the amendment.

3 DELEGATE BYRNES: The amendment would be to
4 Section 2.01, page 5, line 32, after the word "district"
5 add the following: "in which that officer section election".
6 Then continue on to the end of that sentence. The point
7 of the amendment if I may --

8 THE PRESIDENT: Just a second, please. What
9 line was that, Delegate Byrnes?

10 DELEGATE BYRNES: It was line 32, after the
11 word "district", add "in which that officer section election".

12 THE PRESIDENT: Delegate James.

13 DELEGATE JAMES: Mr. Chairman, isn't that under-
14 stood? Isn't that implied in the language of this section?
15 Isn't it useless language?

16 THE PRESIDENT: Delegate Case, may the Chair
17 ask you a question?

18 No, I am sorry, that is not the section you were
19 working on.

20 Delegate Byrnes, the Chair's hesitancy is due
21 to the fact that I think the very change that you have

U. OF MICH. LIBRARY

1 suggested was considered at some point and was deliberately
2 rejected for this language on the basis that it means the
3 same thing as suggested by Delegate James.

4 Delegate Koss, can you recall whether this is
5 true?

6 DELEGATE KOSS: I am sorry, Mr. President,
7 my ability at the moment to discriminate what happened
8 at any particular point to the language is sadly deficient.

9 THE PRESIDENT: Very well. Is there any
10 objection to considering, notwithstanding the fact that it
11 is not printed, an amendment to add, after the word
12 District" in line 32, on page 5, the words "in which that
13 officer section election".

14 DELEGATE JAMES: Objection.

15 THE PRESIDENT: There is an objection made.
16 The amendment would have to be printed.

17 Any other amendments to Article 2?

18 The Chair hears none.

19 Any amendments to Article 3?

20 The Chair has an amendment.

21 Delegate Gallagher, do you desire to offer your

U. DE ME. 1111111111

1 amendment?

2 DELEGATE GALLAGHER: Mr. President, I do. I
3 think it would be easier on the delegates if all five of
4 these, which are quite related and simple, came in right
5 with each other, E, G, H, I, and J.

6 THE PRESIDENT: Will the pages please distribute
7 Amendments E, G, H, I, and J?

8 Amendment E will be Amendment No. 2.

9 The Clerk will read the amendment.

10 MR. QUILLEN: Amendment No. 2 to Report No.
11 S&D-18 by Delegate Gallagher:

12 On page 10 Section 3.04 Legislative Districts
13 in line 9 strike out the following words: "prior to the
14 general election".

15 THE PRESIDENT: The amendment G will be Amendment
16 No. 3. We will not read it over right now, just mark it.

17 Amendment H will be Amendment 4.

18 Amendment I will be Amendment 5.

19 Amendment 6 will be Amendment J.

20 Amendment 2 is submitted by Delegate Gallagher.

21 Is there a second?

1 (There was a second.)

2 THE PRESIDENT: The amendment has been seconded.
3 Delegate Gallagher.

4 DELEGATE GALLAGHER: Mr. Chairman, Ladies and
5 Gentlemen of the Convention: If you will go to line 7,
6 page 10, and read the sentence beginning "boundaries of
7 districts shall be redrawn, according to these standards
8 prior to the general election in 1982, and every ten years
9 thereafter", you will observe that it is possible to
10 interpret this sentence to redraw the districts in 1980,
11 1975, 1976, or any year between now and 1982. If we
12 adopt the amendment and drop the language, "prior to the
13 general election", it will be ascertained that redistricting
14 must take place in 1982 and not any year prior to 1982.
15 Therefore, the purpose of this amendment is to tie down
16 redrawing the boundaries of the district for the year and
17 in the year 1982 and no time before that date.

18 I think this is the obvious intent of the
19 Committee and I urge the adoption of the amendment.

20 THE PRESIDENT: Is there any discussion?
21 Delegate Henderson.

1 DELEGATE HENDERSON: I would suggest that the
2 result could be better accomplished by transferring in
3 1982 up to after the word "standards" so that it would be
4 redrawn in 1982, prior to the general election is the way
5 it should read. If you take out the reference to the
6 general election, it might mean that it might permit them
7 to redistrict after the election, and that certainly is
8 not what is desired.

9 THE PRESIDENT: Delegate Gallagher.

10 DELEGATE GALLAGHER: That was not the desire,
11 Judge Henderson, and I do think your suggestion is a good
12 one. I should like to adopt it.

13 THE PRESIDENT: Is there any objection to
14 modifying the amendment by striking out everything after
15 the words, "line 9", in line 2 of the amendment, and
16 inserting the words, after "standards" add "in 1982", and
17 in line ten strike out "in 1982".

18 Is that your intention, Delegate Gallagher?

19 DELEGATE GALLAGHER: I believe, Mr. President,
20 it was suggested by Judge Henderson that the 1982 be inserted
21 in line 8 after the word "redrawn" so that it would be

II. OF THE LIFE

1 "boundaries of the district shall be redrawn in 1982,
2 according to these standards, prior to the general election,
3 and in every tenth year thereafter".

4 THE PRESIDENT: Very well.

5 Any objection to modifying the amendment by
6 striking out all of lines 2 and 3 and in lieu thereof
7 adding, in line 8, after the word "redrawn", add "in 1982"
8 and in line 10 strike out "in 1982"?

9 Is that the amendment?

10 DELEGATE GALLAGHER: That is the amendment, Mr.
11 President.

12 THE PRESIDENT: Is there any objection?

13 Delegate Marion.

14 DELEGATE MARION: May I ask a question of
15 Delegate Gallagher?

16 THE PRESIDENT: Yes.

17 DELEGATE MARION: If the amendment is so
18 modified, would it not remove the requirement that in
19 every tenth year thereafter the boundaries be redrawn prior
20 to the general election?

21 THE PRESIDENT: Delegate Gallagher.

U. DE MU 1492-1498

1 DELEGATE GALLAGHER: I don't so read it, no.

2 THE PRESIDENT: I think the point is well taken,
3 Delegate Gallagher. Would not the sentence properly read,
4 "boundaries of districts shall be redrawn in 1982 and in
5 every tenth year thereafter, according to these standards"?

6 That wouldn't do it either.

7 DELEGATE GALLAGHER: Yes. If you move the
8 entire line up, line 10, I think it would preserve more
9 accurately the intention of redistricting or redrawing every
10 ten years.

11 THE PRESIDENT: Delegate James.

12 DELEGATE JAMES: Mr. Chairman, I object. I
13 have lost the thread of the discussion.

14 THE PRESIDENT: May I make one more suggestion,
15 Delegate James?

16 Delegate Gallagher, would it be better if all
17 of line 10 were added before the word "boundaries" in line
18 7? Would it then carry out your intent?

19 DELEGATE GALLAGHER: It would, Mr. President.
20 Starting with "in 1982 and every tenth year thereafter
21 boundaries of districts shall be redrawn according to these

standards prior to the general election", period.

THE PRESIDENT: I think it is most unwise to be making an amendment such as this on the floor.

Notwithstanding the announcement of the Chair a few moments ago we will pass this for a moment and ask Dr. Loevy to draft a proper amendment and we will come back to it.

Delegate Gallagher.

DELEGATE GALLAGHER: Mr. President, since all five of these revolve around the same point I would ask you to pass over all five.

THE PRESIDENT: Are the other four dependent upon the language of this one or just upon the intent of this one?

DELEGATE GALLAGHER: They are dependent, Mr. President, and at this time I am not disposed to go ahead with three of them in any event.

THE PRESIDENT: The amendments that were marked 3, 4, 5, and 6 will not be offered at this time and not be marked.

Amendment 2 is passed over for the moment.

Are there any other amendments to Article 3?

1 Delegate Macdonald.

2 DELEGATE MACDONALD: I have an amendment, Mr.
3 President, to Section 3.22.

4 THE PRESIDENT: Just a moment.

5 Delegate Gallagher, are you going to be working
6 with Dr. Loevy on the amendment?

7 DELEGATE GALLAGHER: I am.

8 THE PRESIDENT: Do you want to pass for the
9 moment your proposed Amendment M to Section 3.21?

10 DELEGATE GALLAGHER: I have decided not to offer
11 that amendment, Mr. President.

12 THE PRESIDENT: Thank you.

13 Pages will please distribute Amendment A.

14 This will be Amendment No. 3.

15 The Clerk will read the amendment.

16 MR. QUILLEN: Amendment No. 3 to Report No.
17 S&D-18 by Delegates Macdonald, Clagett, Fox, Freedlander,
18 Hanson, Raley, Sickles, Ulrich, and Wagandt:

19 On page 16 Section 3.22 General Application of
20 Laws in lines 25 and 26 strike out the following:

21 "(4) pertaining to natural environment and

1 resources;".

2 THE PRESIDENT: Delegate Gallagher, whatever
3 may be done with Amendment 2, it would not be offered in its
4 present form, I take it. May the Chair mark it as with-
5 drawn"

6 DELEGATE GALLAGHER: You may, Mr. President.

7 You may also mark as withdrawn, G, H, I, and J.

8 THE PRESIDENT: Very well.

9 The last were really not formally offered. You
10 may destroy your copies.

11 Amendment 3 is offered by Delegate Macdonald and
12 seconded by the co-sponsors.

13 The Chair recognizes Delegate Macdonald.

14 DELEGATE MACDONALD: Mr. President, Fellow
15 Delegates: This amendment would strike out from Section 3.22,
16 on page 6, lines 25 and 26, the phrase "pertaining to
17 natural environment and resources".

18 As the section stands now, with those words in
19 there, the General Assembly will be able to enact local
20 laws on the subject of natural environment and resources.
21 With the words out of there, with the words stricken, then

1 the General Assembly could enact only statewide laws on
2 that subject.

3 I think it is quite obvious that Maryland's
4 greatest natural resource is the Chesapeake Bay. The
5 Chesapeake Bay is the greatest natural oyster bed in
6 America, and probably in the world.

7 In February of 1966, the Wye Institute, and
8 that is spelled W-y-e, made a very interesting, complete
9 report on the seafood industry in the State of Maryland.
10 This report, Ladies and Gentlemen, is an eye opener.

11 The Wye Institute is a non-profit organization,
12 chartered in the State of Maryland, sponsored by Eastern
13 Shore leaders, and this report is endorsed by the Eastern
14 Shore leaders who head up the Wye Institute.

15 The drop in oyster production in the State of
16 Maryland, Ladies and Gentlemen, in the last eighty-five
17 years has been shocking. In the last eighty-five years
18 the drop in production of oysters has been nine per cent.

19 A primary cause of this drop and everything I
20 am saying now is taken directly from this report of the
21 Wye Institute, the primary cause of this drop has been the

1 system of county by county laws which we have followed
2 here in the State of Maryland on this subject.

3 Let me quote from page 5 of this report: "The
4 county laws have strangled development. Restrictions of
5 gear are in many cases deleterious. Seasonal laws have
6 interfered with oyster quality. Yet the communal aspects
7 of the fisheries do not have to stand in the way of
8 development, provided reasonable changes take place."

9 The report suggests several methods for rehabili-
10 tating the oyster industry and the seafood industry at
11 large in the State of Maryland.

12 Every one of those suggestions which the report
13 makes would require that the present archaic system of
14 legislating on our natural resources county by county be
15 done away with.

16 In brief, the abolition of this old system of
17 county by county legislation is essential if we are to
18 rehabilitate this industry, which I would say is No. 1 in
19 the State of Maryland.

20 THE PRESIDENT: You have one minute, Delegate
21 Macdonald.

1 DELEGATE MACDONALD: What do these county laws
2 do? First and foremost, they prevent non-residents of
3 county from taking anything from the county waters. If
4 you want to take oysters from the waters of the county of
5 Wicomico you must be a resident of Wicomico County, and
6 that is true all the way down the line with every one of
7 these counties.

8 Secondly, they restrict the methods of operation.
9 They restrict the gear which may be used in harvesting the
10 oysters.

11 Thirdly, they restrict harvesting seasons.
12 In other words, these county by county laws are nothing
13 but restrictions, restrictions and restrictions.

14 THE PRESIDENT: Your six minutes are up,
15 Delegate Macdonald.

16 DELEGATE MACDONALD: Fellow delegates, I urge
17 that you vote for this amendment.

18 THE PRESIDENT: Delegate Carson.

19 DELEGATE CARSON: Mr. President, Ladies and
20 Gentlemen: We live in a State which has been called
21 America in miniature, and I think that phrase has much

1 truth within it because we have in Worcester County a
2 species of deer unknown to the rest of the State. We have
3 in Garrett County a turkey population unknown to the rest
4 of the State.

5 We have seafood species in southern Maryland
6 in the waters of the Bay which are unknown to the upper Bay,
7 and to the tributaries of the Bay, and we have some species
8 of fish in the upper Bay which are unknown to the lower
9 Bay, and do not exist when the saline content becomes too
10 high.

11 For three and a half years I represented many
12 if not most of the Federal agencies in this State which
13 dealt with natural resources. The variation within the
14 State was so great that those agencies themselves varied
15 their regulations within this State, sometimes on a county
16 by county basis, and on occasion Congress itself passed
17 laws which varied within the State, because of the
18 variation of soil, content, game and fish within the State,
19 it was necessary to do so.

20 The exception in 3.22 permits the State itself
21 to vary a law from county to county if it thinks that is

1 wise in this limited area of natural resources.

2 Now, this area is an area in which the State is
3 geared to act. It has the agencies, the Department of
4 Natural Resources, the Department of Chesapeake Bay Affairs,
5 and the Department of Game and Inland Fish, the Department
6 of Means.

7 The counties are not geared to act in this area,
8 only the State, and I doubt, and I think it would be very
9 unwise that the counties be given much authority in this
10 area.

11 I too am against the counties acting greatly
12 in this area and I am not for counties passing their own
13 local laws in these areas, but if the State is to wisely
14 act with regard to natural resources, it must have the
15 flexibility so that it can take action where it thinks it
16 necessary in these areas.

17 The result of this amendment I suggest would be
18 harmful. It would mean this, among two effects: First,
19 that the variations would have to be turned over to an
20 agency of the State with no state control over that agency
21 to change a regulation which varied from county to county

1 unless that regulation was entirely revoked by the General
2 Assembly, or unless the agency itself were destroyed or
3 its funds taken away. Those are both drastic statements.

4 I think it is important to keep in this area
5 the flexibility within the General Assembly. I think we
6 are going to have a good restricted General Assembly,
7 which will be visible, which will act responsibly, which
8 will not get into the area of local laws unless it is
9 absolutely necessary, and I ask you and I urge you to permit
10 this necessary variation in this area which I think is
11 very important to the continued welfare of this State,
12 and I think to the natural resources of this State.

13 Thank you.

14 THE PRESIDENT: Any delegate desire to speak
15 in favor?

16 Delegate Clagett.

17 DELEGATE CLAGETT: Mr. President, Ladies and
18 Gentlemen of this Convention: I rise at this point on the
19 basis both of conscience and conviction to support this
20 amendment.

21 When the Constitutional Convention made its

1 recommendations to this Convention, from the Local Govern-
2 ment Committee came seven substantive recommendations.

3 One of those, and I refer to page 22 of the blue book that
4 we have looked at so many times, and direct your attention
5 to Section 48, where it reads as follows: "The General
6 Assembly shall be prohibited from enacting public local
7 laws".

8 Now, if you refer back to the section that we
9 have under consideration, Section 3.22, there are eight
10 exceptions permitting local laws contained therein. Thus
11 are laid the tracks whereby the General Assembly travels
12 right straight down the avenue of local laws.

13 We took some action when we voted upon Amendment
14 16A, that was referred to as the Clagett Amendment, so
15 called, to remove some of the grease off of thought tracks
16 and to put some sand upon those tracks.

17 However, we have not changed the level of those
18 tracks, which is down grade. What this amendment does is
19 to ask that you level those tracks. It will not have the
20 effect of changing to an upgrade, but it will level those
21 tracks whereby in this area if you refer to general provisions,

1 Section 9.06, we are dealing not alone with the oyster
2 industry and natural resources. We are also dealing with
3 natural environment and with scenic beauty of the State.

4 Here we are in an area which is unchartered,
5 undefined. In this area we should place upon the General
6 Assembly the responsibility of determining the charter,
7 the definition, and the area in which action should be
8 taken. It shall be left by the provisions of this section
9 to the General Assembly by law, and where we are permitting
10 it to act by law, with the other exceptions that are con-
11 tained in Section 3.22, which will remain there, there will
12 be variation where necessary from county to county. There
13 will be a cooperation between the General Assembly setting
14 the standards and the counties operating beneath that
15 level in execution of those standards, and we will truly
16 have the cooperation between the General Assembly and
17 the counties to benefit and to execute what is for the
18 general welfare of the entire State across the board and
19 throughout the entire State.

20 THE PRESIDENT: You have one quarter minute,
21 Delegate Clagett.

1 DELEGATE CLAGETT: I therefore urge you, with
2 the utmost of sincerity of which I am capable, and
3 having lived with this subject for now three years to adopt
4 this amendment and to at least put some degree of level into
5 the tracks of local legislation rather than to permit it to
6 run rampant in the way in which it would now do, defeating
7 entirely the accomplishment that the Local Government
8 Committee feels that it has contributed to this Convention.

9 There are more than fourteen members of the
10 Local Government Committee behind this amendment, and I
11 believe that actually on final count there will be fifteen
12 members of the Local Government Committee, and we have
13 carefully studied, we have spent hours, late into the
14 night as well as through the days to try to give you the
15 best of which we are capable. Please back us up on this.

16 THE PRESIDENT: Any other delegate desire to
17 speak in opposition to the amendment? Any other delegate
18 desire to speak?

19 Are you ready for the question?

20 The Clerk will ring the quorum bell.

21 The question arises on the adoption of Amendment

1 No. 3.

2 A vote Aye is a vote in favor of the amendment;
3 a vote No is a vote against.

4 Cast your votes.

5 Has every delegate voted?

6 Does any delegate desire to change his vote?

7 The Clerk will record the vote.

8 There being seventy-six votes in the affirmative
9 and forty-three in the negative, the motion is carried.

10 The amendment is adopted.

11 Delegate Macdonald, in view of the adoption of
12 this amendment, it would be necessary to change the numeral
13 "5" in line 26 to "4"; the numeral "6" in line 27 to "5";
14 the numeral "7" in line 29 to "6"; and the numeral "8"
15 in line 31 to "7".

16 Do you so move?

17 DELEGATE MACDONALD: I do, Mr. President.

18 THE PRESIDENT: Is there any objection to
19 considering the amendment now offered, notwithstanding
20 the fact that it is not printed?

21 The Chair hears none.

1 This will be Amendment No. 4.

2 Amendment No. 4 will be to change the numerals
3 5, 6, 7, and 8, in lines 26, 27, 29, and 31, to numerals
4 4, 5, 6, and 7 respectively.

5 Is there any discussion?

6 Are you ready for the question?

7 The question arises on the adoption of Amendment
8 No. 4.

9 A vote Aye is a vote in favor of the amendment;
10 a vote No is a vote against.

11 Cast your vote.

12 Has every delegate voted?

13 Does any delegate desire to change his vote?

14 The Clerk will record the vote.

15 There being 114 votes in the affirmative and
16 two in the negative, the motion is carried. The amendment
17 is adopted.

18 Is there any other amendment to Article 3?

19 The Chair has no other amendment. Are there
20 any to Article 3?

21 Delegate Gallagher, do you know at this time

1 that you definitely will not have the other amendments to
2 Article 3?

3 DELEGATE GALLAGHER: I do, Mr. President. There
4 will be no intention on my part to offer any further
5 amendment.

6 THE PRESIDENT: Thank you.

7 Article 4 is now open to amendment.

8 Delegate Morgan.

9 DELEGATE MORGAN: Mr. President, Amendment N.

10 THE PRESIDENT: Amendment N for Nan. Pages
11 will please distribute the amendment.

12 While this is being distributed, and in order to
13 relieve apprehensions of any delegates concerning the
14 weather situation, Miss Kelsey Kaufman tells me quite
15 positively that in the event the weather is such as to
16 make any delegates apprehensive about returning home tonight.
17 She assures me that you can be berthed at officers' homes
18 at the Naval Academy. (Applause)

19 There will be an Amendment No. 5.

20 The Clerk will read the amendment.

21 MR. QUILLLEN: Amendment No. 5 to Report No.

1 S&D-18 by Delegates Morgan, Adkins, and Chabot.

2 On page 24 Section 4.23 Tie Votes in line 20
3 after the period add this new sentence:

4 "The election of a governor shall constitute
5 the election for the same term of the lieutenant governor
6 who was listed on the ballot with him at the general
7 election."

8 THE PRESIDENT: The amendment is submitted by
9 Delegate Morgan, seconded by Delegates Adkins and Chabot.

10 The Chair recognizes Delegate Morgan.

11 DELEGATE MORGAN: Mr. President, this amendment
12 is designed to take care of an oversight on the drafting
13 of the executive article. We provided for the tie vote
14 in the case of the governor, the comptroller, or the
15 attorney general, but didn't provide for what happened
16 in the case a governor was elected on a tie vote by the
17 General Assembly, but there was no provision made for the
18 lieutenant governor, and this is simply to fill that void.

19 THE PRESIDENT: Is there any further discussion?

20 Are you ready for the question?

21 The Clerk will ring the quorum bell.

1 The question arises on the adoption of Amendment
2 No. 5.

3 A vote Aye is a vote in favor of the amendment;
4 a vote No is a vote against.

5 Cast your votes.

6 Has every delegate voted?

7 Does any delegate desire to change his vote?

8 The Clerk will record the vote.

9 There being 122 votes in the affirmative and
10 none in the negative, the motion is carried. The amendment
11 is adopted.

12 Are there any further amendment to Article 4?

13 The Chair has none. The Chair hears none.

14 Article 5 is now open to amendment. Are there
15 any amendments to Article 5?

16 The Chair has no amendment to Article 5.

17 Are there any? The Chair hears none.

18 Delegate Marion.

19 DELEGATE MARION: Mr. Adkins has been working
20 on an amendment to Section 5.03, which I would like to
21 offer when it is printed.

1 THE PRESIDENT: That is the amendment the Chair
2 requested the staff to prepare and I have conferred with
3 Mr. Adkins about. We will pass it and come back to it as
4 soon as it is ready.

5 Any other amendments to Article 5?

6 The Chair hears none.

7 Article 6 is now open to amendment. Are there
8 any amendments to Article 6?

9 Are there any announcements as to Article 6?
10 I am sorry, are there any amendments to Article 6?

11 The Chair hears none.

12 Before proceeding to Article 7, the Chair would
13 recognize Delegate Carson for the purposes of making an
14 announcement. He has advised the Chair, because of having
15 two young children with him, one under medication, it is
16 imperative that he leave. He has a long trip and under the
17 circumstances the Chair has agreed to give him the floor
18 to announce his intentions with respect to the voting, in
19 which he will not now be able to participate.

20 This is not by any means to be taken as a prece-
21 dent for any similar action by other delegates. I happen to

1 know that the situation of Delegate Carson arises only
2 because of his children.

3 Delegate Carson.

4 DELEGATE CARSON: Mr. Chairman, Ladies and
5 Gentlemen: I regret the snow storm has come on us and
6 I would like to state that if I were able to remain it
7 would be my intention to vote in favor of each and every
8 article of the Constitution, and vote in favor of the
9 entire Constitution.

10 There are things in the Constitution with
11 which I did not specifically agree. I think that will so
12 of us all, but I do think that on the whole there is no
13 question that this Constitution and each and every
14 article of it will be a major benefit to this State and
15 a major reform, and I look forward myself to having you
16 join me in that vote.

17 THE PRESIDENT: Thank you very much. (Applause)

18 Delegate Clagett.

19 DELEGATE CLAGETT: Mr. President, a point of
20 personal privilege.

21 THE PRESIDENT: State the privilege.

1 DELEGATE CLAGETT: Before Delegate Carson leaves
2 the chamber, I wish to state for the record that he has
3 been one of the most valuable assistants to our Local
4 Government Committee and to me personally throughout the
5 work on that Committee. I have worked closely with him in
6 finding ways in which to compromise differences of view,
7 and we have achieved that purpose.

8 One of the bases upon which we approached
9 compromise was an understanding between us that the
10 natural resources and environment clause would be included
11 in the Constitution. There was to some extent a difference
12 of view with respect to whether it would be by general or
13 by local law, and because of the nature of the understanding,
14 I went to him two days ago and asked him to release me
15 from that understanding, whereby it applied to that differ-
16 ence. He did so in the spirit of and in a way for which
17 I wish to express deep gratitude now, which I feel toward
18 him for having done so. Thank you. (Applause)

19 THE PRESIDENT: Article 7 is open to amendment.
20 Are there any amendments?

21 The Chair hears none.

1 Article 8 is open to amendment. Are there any
2 amendments?

3 The Chair hears none.

4 Article 9 is open to amendment. Are there any
5 amendments?

6 Delegate Mentzer, do you desire to offer your
7 amendment D?

8 DELEGATE MENTZER: Yes, I do.

9 THE PRESIDENT: The pages will please distribute
10 Amendment D, D for David. This will be Amendment No. 6.

11 The Clerk will read the amendment.

12 MR. QUILLEN: Amendment No. 6 to Report No.
13 S&D-18 by Delegate Mentzer:

14 On page 48 Section 9.06 National Resources in
15 lines 29 and 30 strike out the following?

16 "and resources, and of the scenic beauty of the
17 State"

18 and insert in lieu thereof the following?
19 ", natural resources, and natural beauty of the State".

20 THE PRESIDENT: The amendment has been submitted
21 by Delegate Mentzer. Is there a second?

1 DELEGATE BEATRICE MILLER: Second.

2 THE PRESIDENT: The Chair recognizes Delegate
3 Mentzer.

4 DELEGATE MENTZER: Mr. President, this amendment
5 borders on one on style and I apologize in some way for
6 taking up the time of the Convention with it.

7 However, I believe all of us had hoped that
8 there would be grace and lilt in all sections of the
9 Constitution and we oftentimes abandoned this for the
10 sake of accuracy and clarity.

11 We feel we can add somewhat to the natural
12 beauty of this sentence by adopting this amendment.

13 THE PRESIDENT: Is there any discussion?
14 Are you ready for the question?

15 The Clerk will ring the quorum bell.

16 THE PRESIDENT: Delegate Burdette.

17 DELEGATE BURDETTE: Is it in order for me to
18 ask a question of the sponsor?

19 THE PRESIDENT: Yes.

20 Delegate Mentzer, do you yield to a question?

21 DELEGATE MENTZER: Yes.

1 THE PRESIDENT: Delegate Burdette.

2 DELEGATE BURDETTE: I have been one who felt
3 this did not border on style because I had thought that the
4 intent of such a motion could be construed, and I ask the
5 intent, to avoid any constitutional authority to regulate
6 billboards and other man-made effects upon the scenic
7 beauty of the State, and I should like to query whether this
8 substantive change is implicit in the language proposed.

9 THE PRESIDENT: Delegate Mentzer.

10 DELEGATE MENTZER: I am sorry. I don't under-
11 stand.

12 THE PRESIDENT: Delegate Mentzer, I think what
13 Delegate Burdette is saying is that, does the amendment
14 have the effect or is it intended to have the effect to
15 restrict the General Assembly to regulating natural beauty
16 of the State as distinguished from scenic beauty affected
17 by man-made objects, as for instance, billboards. Does
18 this amendment deprive the Legislature of the right to
19 prevent or regulate billboards?

20 DELEGATE MENTZER: No, sir.

21 THE PRESIDENT: I take it, so that the intent

1 would be clear, the Chair would understand the purpose of
2 this section to be a mandate to the General Assembly to
3 legislate in the field referred to, but is not intended in
4 any way as a restriction on the plenary power of the
5 General Assembly to legislate.

6 Does any delegate controvert the statement just
7 made by the Chair?

8 Are you ready for the question?

9 The question arises on Amendment No. 6.

10 A vote Aye is a vote in favor of the amendment;
11 a vote No is a vote against.

12 Cast your votes.

13 Has every delegate voted?

14 Does any delegate desire to change his vote?

15 The Clerk will record the vote.

16 There being fifty-nine votes in the affirmative
17 and fifty-seven in the negative, the motion is carried.

18 The amendment is adopted.

19 Delegate Gallagher, do you desire to offer your
20 Amendment C?

21 DELEGATE GALLAGHER: Yes, Mr. President, I do.

1 THE PRESIDENT: Pages please distribute Amend-
2 ment C, C for Charlie.

3 Delegate Sybert.

4 DELEGATE SYBERT: Mr. Chairman, the Chair
5 announced Amendment 6 passed. I was under the impression
6 seventy-two votes were required on third reading.

7 THE PRESIDENT: This is amendments and as
8 indicated by the Chair at the beginning of this session,
9 amendments are adopted or rejected by a majority of those
10 present and voting. Final vote on the article requires
11 seventy-two votes. It is only the final vote on the
12 articles that requires the absolute majority.

13 Amendment No. 7. The Clerk will read the
14 amendment.

15 MR. QUILLEN: Amendment No. 7 to Report No.
16 S&D-18 by Delegate Gallagher:

17 On page 49, Section 9.10. Corporation Charters
18 in line 30 strike out the words: "that are now or may
19 hereafter be";

20 And on line 35 after the word "charter" add the following:
21 "except to the extent that application of this section may

1 be prohibited by Article 1, Section 10 of the Constitution
2 of the United States".

3 THE PRESIDENT: The amendment is submitted by
4 Delegate Gallagher. Is there a second?

5 DELEGATE BENNETT: Second.

6 THE PRESIDENT: The amendment is seconded by
7 Delegate Bennett.

8 Delegate Gallagher.

9 DELEGATE GALLAGHER: I hope you will agree with me
10 this is the last ride on the B&O Railroad amendment. The
11 other evening when we amended this section, question was
12 raised about the possibility concerning some pre-1892
13 special or general laws that would put us in a position with
14 this language to contravene the prohibition against the
15 right of contract interference with the first article of
16 the Constitution of the United States.

17 At that particular time I could see no known
18 statute. However, I have had a discussion with Mr. Walter
19 Lewis, the advisor to the Committee on State Finance and
20 Taxation and with other knowledgeable parties who are
21 aware of the history of the B&O Railroad amendment, and we

1 feel that even though there may be no problems with the
2 language as it now exists, that we can insure ourselves
3 by not getting into questions of when a statute was passed,
4 ub simply to say that we intend to keep this section exactly
5 as it was in the prior Constitution, and that we pick up
6 all the possibilities, so to speak, except to the extent
7 that the Federal Constitution will not allow us to do so,
8 particularly in view of the fact that the B&O Railroad has
9 already won one case involving the preservation of this
10 exemption on the basis that an attempt by the General
11 Assembly or by the Constitution to impair its prior rights
12 relating to the taxation exemption was a violation of the
13 contract clause of the Federal Constitution.

14 I think that we have at last arrived at the
15 point where we have carried over the intent and meaning
16 and impact of the prior section, that is Article 3, Section
17 48 of the old Constitution, and kept it as much intact as
18 possible, without on the face of the language violating the
19 Federal Constitution.

20 Hopefully, therefore, I would urge the adoption.
21 I am sorry that this has been so involved, but Delegate

1 Chabot did raise the point the other evening as did
2 Delegate Gleason and I think hopefully that this takes
3 care of it.

4 THE PRESIDENT: Is there any discussion?
5 Delegate Scanlan.

6 DELEGATE SCANLAN: Could I ask Delegate Gallagher
7 a question about his amendment to the abominable clause?

8 THE PRESIDENT: Delegate Gallagher, do you yield?

9 DELEGATE GALLAGHER: Yes.

10 THE PRESIDENT: Delegate Scanlan.

11 DELEGATE SCANLAN: If the State acting under
12 this clause does something that offends Article 1, Section
13 10, impairment obligation contract clause of the Federal
14 Constitution it would be unconstitutional. If it doesn't
15 act unconstitutionally, it wouldn't be constitutional. Why
16 do we have to put this nonsense in here?

17 THE PRESIDENT: Delegate Gallagher.

18 DELEGATE GALLAGHER: I appreciate the statement
19 of the obvious. It has never been so patently put, I might
20 say to the delegate.

21 The answer is this, that we are forewarning the

1 General Assembly and anyone who desires to enter into liti-
2 gation that we had no intention to act illegally; and
3 furthermore, we don't want this entire section to fall
4 because one part of it may be found to contravene the
5 Constitution of the United States. and therefore we say
6 ahead of time, we will do good an avoid evil, and we would
7 like to pick up all the benefits that flow from following
8 the natural law in this respect.

9 THE PRESIDENT: Delegate Henderson.

10 DELEGATE HENDERSON: I wasn't consulted about
11 this amendment and I take a very dim view of it, I may say.
12 It seems to me that either as Delegate Scanlan has said,
13 that it is a statement of the obvious, or it is an attempt
14 to tie the hands of the Legislature in the dealing with
15 this problem insofar as they may be able to deal with it.
16 I again repeat that this section in *haec verba*
17 *was* adopted as a compromise in 1892 with the B&O
18 Railroad, and I think it is extremely dangerous to sling
19 in here extraneous matter which seems to me to be completely
20 unnecessary, and may have the effect of changing the whole
21 force and effect of this compromise agreement.

1 I would urge you to vote against the amendment
2 and leave the thing the way it was before.

3 THE PRESIDENT: Delegate Pullen, will you wait
4 just a moment?

5 I think perhaps Delegate Gallagher, out of a
6 sense of delicacy maybe, has refrained from advising you
7 that the suggested language was suggested by the Chair.

8 The question was raised by Delegate Chabot some
9 days ago. The history concerning this section is indeed
10 very complicated, as many of you have already been told.
11 I don't know that anybody could, from memory today tell
12 you precisely the history of the old dispute.

13 The Chair was concerned about the point that
14 Delegate Chabot made, which was, although a finely-drawn
15 point, one which perhaps could cause difficulty.

16 The problem arises not with the difficulty and
17 not with the language of the 1867 Constitution, but with
18 using the language of the 1867 Constitution in the 1968
19 Constitution. When that language included the word
20 "hereafter", the "hereafter" would seem to refer, if it is
21 included without further language, to after 1968. That

1 obviously can't be the case, and for that reason the Commit-
2 tee suggested the inclusion of the words "now or hereafter"
3 which raised the question in Delegate Chabot's mind that
4 that might go back too far and he suggested that he use
5 the date in 1891, or thereafter. The Chair suggested that
6 while he could not be sure, he had a very distinct
7 recollection that there was either a settlement act or
8 a settlement arrangement that maybe was not embodied in
9 legislation in 1848. There was definitely a settlement
10 act in 1878, and another one in 1890.

11 The problem, we had the research assistants
12 check and there were no constitutional amendments between
13 1867 and 1891 dealing with this question. It is impossible
14 to check to ascertain that there are: 1, no other settle-
15 ment acts affecting the question prior to 1891 and no
16 settlement agreements with the executive.

17 For this reason, although it is true, as
18 Delegate Scanlan says, that the sentence states the
19 opposite, it does in addition, however, make it abundantly
20 clear that in this section the Constitutional Convention
21 is endeavoring to put, not only the Baltimore and Ohio

1 Railroad, but other corporations in the same category, in
2 exactly the same situation as all other corporations to
3 the extent that it can constitutionally and the only
4 constitutional prohibition is the contract clause.

5 Hence, the amendment takes out the troublesome
6 words "now or hereafter". Without some qualification
7 that would mean that to a certain extent it would have
8 unconstitutional application. To make it clear that we
9 intend no unconstitutional application and avoid the risk
10 that the Supreme Court would say that because it is uncon-
11 stitutional in part the entire section falls, the suggestion
12 was made that the language be added here.

13 I think we have debated this section up and down
14 and back and forth to the N'th degree, and I don't think
15 any further discussion is necessary. I think we should
16 act on it.

17 Delegate Pullen.

18 DELEGATE PULLEN: Mr. Chairman, in order to
19 bring a little relaxation and to prolong the session, I
20 was going to suggest to the President that being a
21 preacher's son I understand the meaning of the Hereafter,

1 but I thought that for the purpose, for enlightenment of
2 the layman, Mr. Gallagher might give us a dissertation
3 on the natural law.

4 THE PRESIDENT: Is there any further disserta-
5 tion?

6 Delegate Weidemeyer.

7 DELEGATE WEIDEMEYER: Mr. President, it seems
8 to me that if we could divide this amendment into the two
9 parts, the first part would strike out language, "that are
10 now or may hereafter be", and I may be wrong but I believe
11 we revert then to our old original language.

12 THE PRESIDENT: That would not be true. The
13 word "hereafter" is in the 1867 Constitution.

14 DELEGATE WEIDEMEYER: If we would strike out
15 everything and leave it exactly as it were in the 1867
16 Constitution, amended in 1891, it would seem to me that
17 a fair constitutional construction would be that having
18 continued the old language in its entirety we have meant
19 to continue rather than add something new and so I think
20 that would be the constitutional construction, and in any
21 event this last section which says "except to the extent"

1 because if there is any question legally as to the applica-
2 tion of this provision, and it goes into court and the court
3 may construe it then, and I think we would be just in the
4 same position as without this language or with this language.

5 THE PRESIDENT: Delegate Weidemeyer, the
6 suggestion you made was considered by the staff, and Mr.
7 Walter Lewis, suggested I think perhaps in desperation
8 finally that we revert to the original language of the
9 1867 Constitution, which would not be at all the language
10 of this section with these words stricken out, but a great
11 deal more besides, but then if we did that, we would have
12 to add another sentence, which would also perhaps be subject
13 to the criticism that it too stated the obvious, but
14 nevertheless would be essential.

15 The matter has been considered by the various
16 people who will have worked on it. I don't suppose they
17 will ever have absolute agreement on what is desired.

18 Any further discussion?

19 Delegate Gallagher, do you have any further
20 comment?

21 DELEGATE GALLAGHER: No, sir, except that this

1 is the end of the line.

2 THE PRESIDENT: Delegate Henderson.

3 DELEGATE HENDERSON: In view of the Chair's
4 explanation, I would like to withdraw my objection and
5 leave the litigation to be handled in the future.

6 THE PRESIDENT: Is there further discussion?

7 The question arises on the adoption of Amendment
8 7.

9 A vote Aye is a vote in favor of the amendment;
10 a vote No is a vote against.

11 Cast your vote.

12 Has every delegate voted?

13 Does any delegate desire to change his vote?

14 The Clerk will record the vote.

1 There being one hundred and eleven votes in
2 the affirmative and nine in the negative, the motion
3 is carried. The amendment is adopted.

4 Are there any other amendments to Article 9?

5 Delegate Cardin.

6 DELEGATE CARDIN: Mr. President, I have
7 waited for an amendment to have been printed, which
8 was submitted at least half an hour or forty-five minutes
9 ago, to Section 9.01 pertaining to the oath. It is a
10 very simple amendment. It was submitted once before
11 under another reading.

12 THE PRESIDENT: Amendment Q, has it been
13 printed?

14 Amendment Q, the Chair has a typewritten copy.
15 It is in the print shop. It will be perhaps fifteen
16 minutes, maybe ten, before it is back. It would amend
17 Section 9.01 on page 47 in line 10, to strike out the
18 phrase, parentheses, "In the presence of Almighty God",
19 close parentheses. Is there any objection to considering
20 the amendment, notwithstanding the fact that it is not
21 printed with the understanding the printed amendment will

1 be on your desk very shortly? Is there any objection?

2 The Chair hears none.

3 DELEGATE NEILSON: Mr. Chairman, I don't
4 think I understood when you repeated what was stricken
5 out. I think, although I am against the idea that
6 Mrs. Cardin is presenting, but to get it properly on the
7 floor, should we not have to go back to line 9 and strike
8 out the explanation?

9 THE PRESIDENT: I take it that that would be
10 necessary. In line 9 strike out the phrase --

11 I am sorry. It could remain as applicable to
12 the words "or affirm" even though it wasn't there
13 originally. The Chair suggests we could make better
14 time to act on it. The amendment is easily understood:
15 line 10, page 47, strike out the parenthetical expression.

16 Is there any objection to considering the
17 amendment, notwithstanding the fact that it is not
18 printed?

19 The Chair hears none. This will be Amendment
20 No. 8. The Clerk will read the amendment.

21 MR. QUILLEN: Amendment 8 to Report No. S&D-18

1 by Delegates Cardin, Koss, and Marion:

2 On page 47 Section 9.01 Oath in line 10
3 strike out the following: "(In the presence of Almighty
4 God)".

5 THE PRESIDENT: I would like to make an
6 announcement before we consider this. The chief page
7 advises me that the reprinted pages for those pages of
8 this report which were blank on the copies of some
9 delegates are here. They can be distributed. To avoid
10 confusion, when I ring the bell, will every delegate
11 who has any blank page put on his red light and leave it
12 on and the pages will then know who is missing a page.
13 We will come to you and supply you with the correct ones.
14 The pages are 19, 31, 24, 36, 28. Instead of using the
15 roll call lights, Mrs. Marx tells me she can pick it
16 up just as easily if you will put on your signal light.
17 Put on the light that you signal for a page if you are
18 missing any of those page numbers. Put your light on and
19 leave it on until the page has given you the new sheets.

20 Delegate Sybert.

21 DELEGATE SYBERT: Mr. Chairman, I suggested

1 sometime back that page 42 is also missing, and you said
2 you would add it to the list.

3 THE PRESIDENT: That is one of the numbers
4 included, 42.

5 Delegate Clagett.

6 DELEGATE CLAGETT: I am missing 49, Mr.
7 Chairman.

8 THE PRESIDENT: 49 is also reprinted, I
9 understand.

10 Correction. It has not been reprinted.

11 Amendment No. 8 submitted by Delegate Cardin,
12 seconded by Delegates Koss and Marion.

13 The Chair recognizes Delegate Cardin.

14 DELEGATE CARDIN: Mr. President, fellow
15 delegates, I will not take up much of the valuable time
16 of this Convention.

17 I would just like to make three points since
18 we have been through this ground before.

19 First, in checking with three or four
20 constitutional attorneys who are not involved with this
21 Convention, I have found that there still is a doubt as

1 to the constitutionality of this particular clause. Not
2 that it will affect the Constitution itself, but it
3 would affect this particular oath.

4 Second, we had struck out Article 37 that
5 required no religious test other than the declaration of
6 belief in the existence of a God from our previous
7 Constitution because we were instructed to by the Supreme
8 Court.

9 Third, the Committee on Declaration of Rights
10 did not report this oath out with the belief, or the
11 affirmation of God even in parentheses. It was included
12 in an amendment and not part of that Committee report.

13 I could be facetious and say that after the
14 last time this was discussed, I received many oaths, many
15 of which said "In the presence of" and fill in the blank,
16 and the blanks were numerous.

17 There are many who believe in other forms of
18 a Supreme Being than we do, and I feel that this could
19 be a reflection on the one who may refuse to use these
20 parenthetical words. That is the reason that I felt
21 that I should bring this up this last time before the

1 entire article goes before the Convention. I hope you
2 support this amendment, remembering that anyone who is
3 religious and believes in a Supreme Being will pray to
4 him before he assumes any responsible task.

5 THE PRESIDENT: Delegate Harry Taylor.

6 DELEGATE HARRY TAYLOR: Mr. President, ladies
7 and gentlemen of the Convention, the strongest argument
8 seems to be one of doubt and I ask you all to resolve
9 this doubt in favor of God and to allow people to endeavor
10 to join the public service on a level that requires
11 taking of an oath to make this election.

12 THE PRESIDENT: Any other delegate desire to
13 speak in favor?

14 Delegate Kiefer.

15 DELEGATE KIEFER: Mr. President, I don't desire
16 to speak either way except to point out a matter of
17 correct. This was not reported by the Committee on
18 Personal Rights, but by the General Provisions Committee.

19 THE PRESIDENT: Any other delegate desire to
20 speak in favor?

21 Delegate Marion?

1 DELEGATE MARION: Mr. President, like Dr.
2 Pullen, I am too a preacher's son, but I think that this
3 parenthetical language in the Constitution is out of
4 place. When it was considered before the comment was
5 made in very effective argument against a similar amendment,
6 that we would be taking away from the people something
7 that is in the present Constitution --

8 I think that is incorrect, and I don't believe
9 that the present oath that has been used in the current
10 Constitution has a reference to the Deity in it. If
11 the intention is to make this type of phrase, or this
12 phrase an optional one, it will be omitted from the
13 Constitution because, if there, even in parentheses,
14 there is the same element of compulsion the Supreme
15 Court found in the case of Engel against Vitale, and it
16 seems to me that it is, or that it will not be long before,
17 based upon the decision in Engel against Vitale, when
18 combined with the decision in the Torcaso case, that this
19 entire oath will be struck down because of this language.

20 I think too, as a more practical matter, this
21 will pose a problem which we do not wish to create. I

1 would hate to see the time come when future office holders
2 of this state are asked before they take the oath, are
3 you going to take the oath with reference to the Deity
4 in it or out of it and have newspaper stories say that
5 Governor Elect so and so will take the oath without
6 reference to God, or that the Governor so and so will take
7 it with God in it.

8 I don't think this is a matter that we ought
9 to put in the Constitution. I respectfully urge you to
10 support the amendment, and leave the oath in essentially
11 the form it is in the present Constitution.

12 THE PRESIDENT: Delegate Weidemeyer.

13 DELEGATE WEIDEMEYER: Mr. President, I hope
14 this amendment is defeated. The only reason given for it
15 is that somebody somewhere has expressed some doubt.

16 I have no doubt of a Supreme Being and I have
17 no doubt of the fact that I should have this in here, and
18 if it is going to be taken out, I suggest that we not do
19 it at this late hour, but have some judge in the future
20 who doesn't want to believe in God and wants to spring
21 him from this place in the Constitution. Let him do it.

1 Let us not do it.

2 THE PRESIDENT: Any other delegate desire to
3 speak in favor?

4 Delegate Case.

5 DELEGATE CASE: Mr. President, I move the
6 previous question.

7 THE PRESIDENT: Second?

8 (Whereupon, the motion was seconded.)

9 THE PRESIDENT: The question arises on the
10 motion to order the previous question on the adoption of
11 Amendment No. 8. All in favor signify by saying Aye;
12 contrary No.

13 The Ayes have it. It is so ordered.

14 The Clerk will ring the quorum bell.

15 The question arises on the adoption of Amendment
16 No. 8. A vote Aye is a vote in favor of the amendment.
17 A vote No is a vote against.

18 Cast your votes.

19 Has every delegate voted?

20 Does any delegate desire to change his vote?

21 The Clerk will record the vote.

1 There being forty-eight votes in the affirmative
2 and seventy-seven in the negative, the motion is lost.
3 The amendment is rejected.

4 Are there any other amendments to Article 9?

5 (No response)

6 THE PRESIDENT: The Chair hears none.

7 Article 10 is now subject to amendment. Are
8 there any amendments to Article 10?

9 (No response)

10 THE PRESIDENT: The Chair hears none.

11 Are there any amendments to the Schedule of
12 Transitional Provisions?

13 (No response)

14 THE PRESIDENT: Delegate Hardwicke, do you
15 desire to offer your Amendment L?

16 DELEGATE HARDWICKE: Yes, Mr. President.

17 THE PRESIDENT: Pages, please distribute
18 Amendment L.

19 For what purpose does Delegate James rise?

20 DELEGATE JAMES: A point of inquiry, Mr.
21 President. In submitting the question to vote, will a

1 vote on Article 1 include a Transitional Provision
2 relating to Article 1?

3 THE PRESIDENT: It will not. The Transitional
4 Provision Schedule will be submitted to vote as a separate
5 schedule.

6 Delegate James.

7 DELEGATE JAMES: Will the entire Schedule
8 be submitted or will the articles be submitted?

9 THE PRESIDENT: The entire Schedule will be
10 submitted as one division to be voted on at one time.

11 This will be Amendment 9.

12 The Clerk will read the amendment.

13 MR. QUILLEN: Amendment No. 9 to Report No.
14 S&D-18 by Delegate Hardwicke:

15 On page 53 Section 6. Delayed Effect of
16 Certain Sections in line 39 after the numerals: "3.03"
17 add the following: ",3.04";

18 and in line 45 strike out the following:
19 "section 3.03" and insert in lieu thereof the following:
20 "sections 3.03 and 3.04".

21 THE PRESIDENT: The amendment is submitted by

1 Delegate Hardwicke. Is there a second?

2 (Whereupon, the motion was seconded.)

3 THE PRESIDENT: The amendment is seconded.

4 The Chair recognizes Delegate Hardwicke.

5 DELEGATE HARDWICKE: Mr. President, this is
6 merely a housekeeping amendment. "3.04 was amended since
7 we drew the Transitional Provisions, and it now contains
8 the provision with respect to the division of Senate
9 districts into three districts for the House of Delegates,
10 and we have to suspend that along with the other provisions
11 with regard to the new legislature until the election of
12 1970, and the purpose of this is to make it clear that that
13 provision also is suspended until 1970, and it is in
14 keeping with other things we have done and I urge its
15 adoption.

16 THE PRESIDENT: Is there any discussion?

17 Are you ready for the question?

18 The question arises on the adoption of
19 Amendment No. 9.

20 The Clerk will ring the quorum bell.

21 The question arises on the adoption of Amendment

1 No. 9. A vote Aye is a vote in favor of the amendment.

2 A vote No is a vote against.

3 Cast your votes.

4 Has every delegate voted?

5 Does any delegate desire to change his vote?

6 The Clerk will record the vote.

7 There being one hundred and fifteen votes in
8 the affirmative and one in the negative the motion is
9 carried. The amendment is adopted.

10 Delegate Mudd, do you desire to submit your
11 amendment?

12 DELEGATE MUDD: Yes, Mr. President.

13 THE PRESIDENT: The pages will please distribute
14 Amendment B, "B" for "baker".

15 This will be Amendment No. 10.

16 The Clerk will read the amendment.

17 MR. QUILLEN: Amendment No. 10 to Report No.
18 S&D-18 by Delegate Mudd:

19 On page 59 Section 26. Application of Section
20 5.22 to Judges Now in Office in line 22 strike out the
21 word "such"

1 and in the same line after the word "judge" add the
2 words "of those courts".

3 THE PRESIDENT: The amendment is submitted
4 by Delegate Mudd. Is there a second?

5 (Whereupon, the motion was seconded.)

6 THE PRESIDENT: The amendment having been
7 seconded, the Chair recognizes Delegate Mudd.

8 DELEGATE MUDD: Mr. Chairman, this is purely
9 an amendment for clarification and has to do with the
10 improvement, we hope, in the language of Section 5.26.

11 I call attention of the delegates to line 22
12 where the sentence now beginning with "The continuance in
13 office" says "each such judge who is required to stand
14 for retention of his judicial office". The word "such",
15 as we have been often reminded, is not thought of very
16 kindly by Style and Drafting, so the purpose of this
17 amendment is to strike the word "such" between "judges"
18 and insert after the words "of those courts", referring
19 to the courts in the early part of the section.

20 We feel this will clarify the meaning and I
21 ask the delegates to vote for the amendment.

1 THE PRESIDENT: Any further discussion?
2 Are you ready for the question?
3 The Clerk will ring the quorum bell.
4 The question arises on the adoption of Amend-
5 ment No. 10. A vote Aye is a vote in favor of the
6 amendment. A vote No is a vote against.
7 Cast your votes.
8 Has every delegate voted?
9 Does any delegate desire to change his vote?
10 The Clerk will record the vote.
11 There being one hundred and nineteen votes in
12 the affirmative and none in the negative, the motion is
13 carried. The amendment is adopted.
14 Delegate Mudd, do you desire to offer your
15 Amendment K?
16 DELEGATE MUDD: Yes, Mr. President.
17 THE PRESIDENT: Pages, please distribute
18 Amendment K, "K" for "king".
19 This will be Amendment No. 11.
20 The Clerk will read the amendment.
21 MR. QUILLEN: Amendment No. 11 to Report No.

1 S&D-18 by Delegate Mudd:

2 On page 59 Section 27. Election of Judges
3 Continued in Office. strike out all of line 36 and
4 insert in lieu thereof the following: "Any judge";
5 And in line 39 after the word "at" add the words: "the
6 general election next following";
7 And strike out all of lines 41, 42, 43, and 44 and
8 insert in lieu thereof the following: "5.22. The term
9 of any such judge shall be";
10 and in line 45 strike out the word: "the" and insert in
11 lieu thereof the word: "such".

12 THE PRESIDENT: The amendment is submitted
13 by Delegate Mudd. Is there a second?

14 (Whereupon, the motion was seconded.)

15 THE PRESIDENT: The amendment having been
16 seconded, the Chair recognizes Delegate Mudd.

17 DELEGATE MUDD: Mr. President, fellow delegates,
18 this amendment again is an effort to clarify the Section
19 27 with respect to the elected judges to continue in
20 office under this Transitional Provision of the Consti-
21 tution.

1 It is a little difficult to follow, but the
2 amendment would result in the Section 27 reading as
3 follows: "Any judge of any court continued in office
4 pursuant to this Schedule shall stand for retention in
5 office at the general election next following the expiration
6 of his term, pursuant and for the term prescribed in
7 Section 5.22. The term of any such judge shall be
8 extended until such next general election."

9 We are again resorting to the use of the
10 word "such", and apologize to Dr. Penniman, but we
11 believe this language is some clarification, and does
12 improve the situation to this extent that there is no
13 doubt about the term of the judge continuing in office,
14 continuing until the next following election.

15 I ask the delegates to vote for this amendment.

16 THE PRESIDENT: Any further discussion?

17 Are you ready for the question?

18 The Clerk will ring the quorum bell.

19 Question arises on the adoption of Amendment
20 No. 11. A vote Aye is a vote in favor of the amendment.
21 A vote No is a vote against such amendment.

1 Cast your votes.

2 Has every delegate voted?

3 Does any delegate desire to change his vote?

4 The Clerk will record the vote.

5 There being one hundred and eleven votes in the

6 affirmative and none in the negative, the motion is

7 carried.

8 The amendment is adopted.

9 Are there any further amendments to the

10 Schedule of Transitional Provisions?

11 Delegate Hardwicke.

12 DELEGATE HARDWICKE: Mr. President, I would

13 like to call your attention to the two definitions that

14 we felt should be added to the Schedule of Legislation.

15 That is to say, --

16 THE PRESIDENT: Schedule of Legislation?

17 DELEGATE HARDWICKE: Yes.

18 THE PRESIDENT: This is Schedule of Transitional

19 Provisions.

20 The Chair hears no amendments.

21 Schedule of Legislation is now open to

1 amendment.

2 Delegate Hardwicke, your amendment is being
3 printed. I am trying to find out how long it will be.

4 Delegate Hardwicke, I think your amendment is
5 a little too involved for us to consider without it
6 being printed.

7 Delegate Grant, you also have an amendment that
8 I think we probably could consider without it being
9 printed, while we are waiting for the other. I understand
10 they are on the way back from the printers now. We will
11 pause just a moment until they are here.

12 The pages will please distribute Amendment O,
13 "O" for "oboe".

14 This will be Amendment No. 12.

15 The Clerk will read the amendment.

16 MR. QUILLEN: Amendment No. 12 to Report No.
17 S&D-18 by Delegate Hardwicke: On page 65 following line
18 14 add this new section:

19 "Section 1. Definitions

20 (a) In this schedule the words "prior
21 Constitution" mean the Constitution of 1867 as amended.

1 (b) In this schedule the word "county" shall
2 be deemed to include Baltimore City.";
3 And on pages 65 through 78, inclusive, renumber Sections
4 1 through 33, inclusive, respectively as Sections 2 through
5 34, inclusive;
6 And on page 66 Section 4. Procedure for Retention in
7 Office of Judges in line 19 strike out the word "such",
8 and insert in lieu thereof the word "the"; and in line
9 20 strike out the following: "(including Baltimore City).";
10 And on page 67 Section 6. Vacancies Occurring During
11 Present Term of the General Assembly in line 12 strike
12 out the words "or city"; and in line 44 strike out the
13 word "twenty-three";
14 And on page 69 Section 12. States' Attorneys strike
15 out all of line 34;
16 And on page 70 Section 16 Statutory References to Courts
17 in lines 44 and 45 strike out the following words: "or
18 Baltimore City";
19 And on page 76 Section 29. Amendment of Instruments of
20 Government. strike out all of lines 26 and 27.

21 THE PRESIDENT: The amendment has been

1 submitted by Delegate Hardwicke. Is there a second?

2 (Whereupon, the motion was seconded.)

3 THE PRESIDENT: The amendment, having been
4 seconded, the Chair recognizes Delegate Hardwicke.

5 DELEGATE HARDWICKE: Mr. President, the
6 purpose of this amendment is to do in formal fashion what
7 we agreed in the Convention about an hour ago could be
8 done because of the problem of definitions.

9 I think, as you all read over this amendment, you
10 will see that the entire subject matter has been discussed
11 on the floor. We picked up the two basic definitions of
12 the prior Constitution, and the basic definition of
13 counties, including Baltimore City, and then we made
14 other conforming changes.

15 I urge its adoption.

16 THE PRESIDENT: Is there any discussion?

17 Delegate Weidemeyer.

18 DELEGATE WEIDEMEYER: Mr. President, this is
19 not on the subject, but I wish that spectators in the
20 gallery would refrain from sitting on the rails or
21 leaning over them because it is hard for me to concentrate

1 with butterflies in my tummy.

2 THE PRESIDENT: Is the Sergeant at Arms here?
3 Will he please go up and make sure that there is a
4 doorkeeper at each door in the gallery and that they
5 insist that no one lean on the rail, children or adults.

6 Is there any further discussion of Amendment
7 No. 12?

8 Are you ready for the question?

9 The Clerk will ring the quorum bell.

10 While we are waiting on that, will the pages
11 distribute Amendment R for "Rogers"?

12 The Amendment R is the Amendment 4 which you
13 acted upon before it was printed.

14 The question arises on the adoption of Amend-
15 ment No. 12. A vote Aye is a vote in favor of the
16 amendment. A vote No is a vote against.

17 Cast your votes.

18 Has every delegate voted?

19 Does any delegate desire to change his vote?

20 The Clerk will record the vote.

21 There being one hundred and fourteen votes

1 in the affirmative, none in the negative, the motion is
2 carried. The amendment is adopted.

3 Delegate Grant, do you desire to offer your
4 Amendment P?

5 DELEGATE GRANT: Yes, sir, Mr. President.

6 THE PRESIDENT: Pages, please distribute
7 Amendment P, "P" for "Paul".

8 The Chair is advised that the snow has ceased
9 for the moment at least. There is apparently about an
10 inch and a half accumulation.

11 Amendment P will be Amendment 13.

12 The Clerk will read the amendment.

13 MR. QUILLEN: Amendment No. 13 to Report No.
14 S&D-18 by Delegate Grant:

15 On page 78 Section 33. Procedures for Amendment
16 of the Constitution in line 8 after the word "county"
17 insert the words "except Baltimore City": and

18 In line 10 after the word "newspaper" insert
19 a comma: and

20 In line 11 strike out the words "City of
21 Baltimore" and insert in lieu thereof the words "Baltimore

1 City".

2 THE PRESIDENT: The amendment is submitted by
3 Delegate Grant. Is there a second?

4 DELEGATE GROH: Second.

5 (Whereupon, the motion was seconded.)

6 THE PRESIDENT: The amendment is seconded by
7 Delegate Groh. The Chair recognizes Delegate Grant.

8 DELEGATE GRANT: This is a simple housekeeping
9 amendment. As Section 33 was originally written, it
10 did not take into consideration the fact that Baltimore
11 City is no longer a city. It is now a county with the
12 proper name of Baltimore City.

13 However, in the general publication of statutes,
14 it has always been required it be published in two
15 newspapers in any county, unless there is only one
16 newspaper, in which case it is published in that one
17 newspaper.

18 However, Baltimore City, the situation arose
19 a number of years ago in which they found it was
20 necessary to make publications in three newspapers.

21 Therefore, this amendment is written to do

1 three things:

2 First of all, to take care of the fact that
3 Baltimore City is now a county instead of a city, to
4 except the county of Baltimore City from the requirement
5 of two newspapers and retain the requirement that in the
6 County of Baltimore City that it be published in three
7 newspapers. Otherwise, it remains the same.

8 THE PRESIDENT: Is there any further discussion?

9 Are you ready for the question?

10 The Clerk will ring the quorum bell.

11 While we are waiting for that, will the
12 pages please distribute Amendment Q which is Amendment
13 8 on which you have already acted.

14 The question arises on the adoption of
15 Amendment No. 13. A vote Aye is a vote in favor of the
16 amendment. A vote No is a vote against.

17 Cast your votes.

18 Has every delegate voted?

19 Does any delegate desire to change his vote?

20 The Clerk will record the vote.

21 There being one hundred and seven votes in

1 the affirmative and none in the negative, the motion is
2 carried.

3 The amendment is adopted.

4 Are there any other amendments to the Schedule
5 of Legislation?

6 The Chair hears none.

7 We will now go back to Article 5 which we
8 passed before to await printing of an amendment.

9 Delegate Marion, do you desire to offer your
10 Amendment S?

11 DELEGATE MARION: I do.

12 THE PRESIDENT: The pages will please distribute
13 Amendment S, "S" for "sugar".

14 DELEGATE BYRNES: Mr. Chairman --

15 THE PRESIDENT: Delegate Byrnes?

16 DELEGATE BYRNES: A matter of personal
17 privilege. While we are waiting distribution of that
18 amendment, up in the balcony, who was warned by Delegate
19 Weidemeyer from jumping off, is a young lady sternly
20 interested in the Constitutional Convention and in the
21 new Constitution. She has for many years labored in the

1 vineyards of the state for a new constitution. I would
2 like to ask the Convention to welcome Miss Pat McDonough
3 from Montgomery County.

4 (Applause)

5 THE PRESIDENT: This will be Amendment 14.

6 The Clerk will read the amendment.

7 MR. QUILLEN: Amendment No. 14 to Report No.
8 S&D-18 by Delegates Marion and Mudd:

9 On page 28 Section 5.03 Rule-Making Power in
10 line 31 after the word "Assembly" insert the words "by
11 law"; and

12 In line 32 strike out the words "provide by
13 law for" and insert in lieu thereof the words "regulate
14 the". and

15 In line 33 strike out the words "subject to
16 rule" and insert in lieu thereof the words "enumerated in
17 this section".

18 THE PRESIDENT: Pages, please distribute the
19 amendment to the delegates indicating they do not have
20 copies.

21 The amendment is submitted by Delegate Marion,

1 seconded by Delegate Mudd.

2 The Chair recognizes Delegate Marion.

3 DELEGATE MARION: Mr. President, this amend-
4 ment too is merely a stylistic one. You can follow the
5 language of the amendment. It would provide in Section
6 5.03, on page 28, that the sentence beginning in the middle
7 of line 31 would read as follows: "The General Assembly
8 by law shall have concurrent power to regulate the matters
9 enumerated in this section, except when these matters are
10 specifically required by this Constitution to be prescribed
11 by rule."

12 We were attempting to make the sentence a
13 little more polished than it was when it was originally
14 there and to avoid the prescribed provide problem by just
15 making an end run around it, and also avoiding using those
16 words.

17 It has the approval, I think before it was
18 prepared, of Chairman Penniman of the Style Committee and
19 I urge its adoption.

20 THE PRESIDENT: Is there any further discussion?

21 Delegate Johnson?

1 DELEGATE JOHNSON: I have a question, Delegate
2 Marion.

3 THE PRESIDENT: Delegate Marion, do you yield
4 to a question?

5 DELEGATE MARION: Yes, sir.

6 THE PRESIDENT: Delegate Johnson.

7 DELEGATE JOHNSON: I am sorry I haven't had
8 a complete opportunity to adjust to the amendment, but
9 I want to ask is it in anyway a change in substance or
10 in anyway a change of an understanding of any colloquy
11 that existed either in the Committee of the Whole or in the
12 Convention?

13 THE PRESIDENT: Delegate Marion.

14 DELEGATE MARION: No, it is not intended at
15 all to change the substance of the section, and if you
16 refer to the various colloquies you had with Chairman
17 Mudd and with the Chair on the use of the words in this
18 section, it is not intended to change any of the questions
19 and answers in those colloquies.

20 THE PRESIDENT: Delegate Johnson.

21 DELEGATE JOHNSON: Again, please understand

1 that I have not had a full opportunity to completely
2 comprehend this amendment, but wouldn't this amendment,
3 perhaps, give rule-making power in the Court of Appeals
4 and matters governing the administration of the courts
5 that is not otherwise provided in Article 5?

6 THE PRESIDENT: Delegate Marion?

7 DELEGATE MARION: I don't see that, Delegate
8 Johnson.

9 THE PRESIDENT: Delegate Marion, I think it
10 might be helpful if you would read the sentence as it
11 would read when amended.

12 DELEGATE MARION: The sentence would read:
13 "The General Assembly, by law, shall have concurrent
14 power to regulate the matters enumerated in this section,
15 except when these matters are specifically required by
16 this Constitution to be prescribed by rule."

17 THE PRESIDENT: Delegate Johnson.

18 DELEGATE JOHNSON: Would or would not if this
19 amendment is adopted, would it give to the Court of
20 Appeals concurrent rule-making power in areas in Article
21 5 where we have specifically recited that the legislature

1 shall have that power, and, in other words, exclusive
2 power not subject to rule-making power, and, therefore,
3 not concurrent?

4 THE PRESIDENT: Delegate Marion?

5 DELEGATE MARION: I don't believe so. This
6 section, as it is written, gives the Court of Appeals the
7 power to prescribe rules in the first sentence in three
8 specific areas.

9 The next sentence which this amendment is
10 designed to clarify simply gives the General Assembly the
11 authority to act by law, a concurrent power to act by
12 law in those three areas, except when any of those
13 things that might be taken to be encompassed within the
14 three categories of the first sentence are spelled
15 out elsewhere in that article and are specifically
16 required to be prescribed by rule, and in those instances
17 it says, the Court of Appeals, by rule.

18 I see no way that it could entitle the Court
19 of Appeals to have a jurisdiction to do by rule what
20 we say the General Assembly is to do by law elsewhere.

21 THE PRESIDENT: Delegate Johnson.

1 DELEGATE JOHNSON: Doesn't it say what you
2 purport it to say without the amendment?

3 THE PRESIDENT: Delegate Marion.

4 DELEGATE MARION: If you are asking me is it
5 not true that it makes no substantive change, I would say
6 yes.

7 THE PRESIDENT: Delegate Johnson.

8 DELEGATE JOHNSON: No further questions.

9 THE PRESIDENT: Delegate Weidemeyer.

10 DELEGATE WEIDEMEYER: Delegate Marion, in
11 view of the first sentence of Section 5.03, which confers
12 upon the Court of Appeals the power to prescribe rules and
13 in view of the fact that that is a new departure, as far
14 as I can recall constitutionally, they had no power to
15 prescribe rules before and the only power that was
16 derived from act of the legislature, and now specifically
17 in the first sentence, when this gives it to them
18 constitutionally, and we definitely understood that it
19 was to be a concurrent power of rule-making.

20 When you put in "The General Assembly shall
21 by law have concurrent power to regulate matters subject

1 to rule, except when these matters are specifically
2 required for this Constitution to be prescribed by rule",
3 aren't you then deleting and cutting out the concurrent
4 power of the legislature with the Court of Appeals that
5 we definitely understood in the Committee of the Whole.

6 THE PRESIDENT: Delegate Marion.

7 DELEGATE MARION: Delegate Weidemeyer, you
8 asked several questions, but in posing the question you
9 stated the language incorrectly as it would read. It
10 would not read "matters subject to rule" but "matters
11 enumerated in this section".

12 It is designed to continue what we had as
13 approved in the first and second readings, a concurrent
14 power in the Court of Appeals to act by rule, and the
15 General Assembly to act by law. The power for the Court
16 of Appeals to act by rule is contained in the present
17 Constitution, and, in effect, the same situation, the
18 concurrent rule-making power, is provided in the present
19 Constitution.

20 THE PRESIDENT: Delegate Weidemeyer.

21 DELEGATE WEIDEMEYER: If, as you say, the

1 General Assembly, by law, shall have, or shall, by law,
2 have concurrent power to regulate matters subject to
3 rule, or matters enumerated in this section-- The matters
4 enumerated in this section is the rule-making power given
5 by the first sentence to the Court of Appeals and to regulate
6 that rule-making power would mean that the General
7 Assembly would have no more power than to say when they
8 had to do it or if they would have to put it up in a
9 book, in brown cover, black cover, et cetera.

10 That is all I see, that you have come here and,
11 as I see it, it has stripped the understanding that we had
12 that there was to be that concurrent power.

13 THE PRESIDENT: Delegate Weidemeyer, I think
14 you have inadvertently, but nevertheless incorrectly,
15 stated the results of the discussion in the Committee
16 of the Whole. It was, as the Chair recalls it, and
17 certainly as this section provides, both before and after
18 the Bothe Amendment, clearly intended that in the areas
19 set out in this section, there was to be concurrent
20 power, except in those instances elsewhere where there is
21 a specific provision for the Court of Appeals to act by

1 rule, in which event, there would be no concurrent power
2 by the General Assembly as, for instance, the power of
3 the Court of Appeals to prescribe by rule for the method
4 of selecting lawymembers of nominating commissions or
5 for secret ballots for lawyers on retention of judges.

6 Some of those matters are specifically designated
7 to be prescribed by rule and not to be subject to the
8 concurrent power of the legislature to prescribe by law.
9 There are a very limited number of those cases, but they
10 do exist.

11 Delegate Weidemeyer.

12 DELEGATE WEIDEMEYER: Thank you, Mr. President.

13 THE PRESIDENT: Any further discussion?

14 Delegate Burdette.

15 DELEGATE BURDETTE: It seems to me that the
16 problem here that Delegate Weidemeyer has identified, but
17 it is very hard to follow from this language, is in
18 lines 31 and 32.

19 As I understand the language, the General
20 Assembly by law shall have concurrent power. That
21 strikes me as quite different from saying in the

1 Constitution that the General Assembly shall have
2 concurrent power. It says that the General Assembly can
3 pass a law. Maybe it comes to the same thing, but it
4 is certainly not a constitutional power. I wonder if the
5 effect of the amendment is not to remove the so-called
6 concurrent rule-making power from its constitutional
7 status?

8 THE PRESIDENT: Delegate Marion.

9 DELEGATE MARION: Delegate Burdette, the
10 amendment is certainly not designed to have that effect.
11 The sentence has posed problems before.

12 This language was drafted by Mr. Adkins,
13 the staff advisor for the Judicial Branch Committee. It
14 is entirely possible that it does not say as well as
15 possible what we intend, but the intention is to make no
16 substantive change, but to clarify the language of the
17 second sentence of this section, and to avoid the difficulty
18 posed by the words "provide" and "prescribe", neither
19 one of which seems to fit very aptly when this sentence
20 is read.

21 THE PRESIDENT: Delegate Burdette.

1 DELEGATE BURDETTE: If we were trying to save
2 the constitutional status of the concurrent power, we
3 would probably need to get the power somewhere more
4 closely to the General Assembly.

5 Now, I wonder, that is, what we are trying to
6 say is the General Assembly acting by law. I frankly
7 think that the amendment can be construed to reverse the
8 language which is here.

9 THE PRESIDENT: Delegate Marion.

10 DELEGATE MARION: Is what you are suggesting
11 that the words, "by law", be located at some other
12 point in the sentence?

13 THE PRESIDENT: Delegate Burdette.

14 DELEGATE BURDETTE: Yes, exactly.

15 THE PRESIDENT: Where?

16 DELEGATE BURDETTE: I should like to get the
17 concept, the General Assembly shall have concurrent power
18 by law, moved into --

19 THE PRESIDENT: Could you do it better by
20 saying you would regulate by law?

21 Delegate Burdette.

1 DELEGATE BURDETTE: I think that would be all
2 right, shall have concurrent to regulate by law. I
3 see no objection to that.

4 THE PRESIDENT: Delegate Marion.

5 DELEGATE MARION: Mr. President, that is
6 perfectly agreeable to me if the amendment can be so
7 modified to insert the word "by law" in the sentence as
8 it will read as amended after the word "regulate". I
9 am acceptable to so modifying the amendment, and Chairman
10 Penniman has observed behind me that he thinks that
11 would be preferable.

12 THE PRESIDENT: The request is made that the
13 amendment be modified by striking all of line 2 and 3 and
14 striking the word "in" in line 5 and striking everything
15 after the word "regulate" in line 7, and inserting "by
16 law".

17 Is there any objection to the amendment?

18 Delegate Burdette.

19 DELEGATE BURDETTE: Would you mind reading the
20 sentence as it would read?

21 THE PRESIDENT: The sentence would then read,

1 "The General Assembly shall have concurrent power to
2 regulate by law the matters enumerated in this section,
3 except when these matters are specifically required by
4 this Constitution to be prescribed by rule".

5 Is there any objection to the modification?

6 The Chair hears none.

7 The Amendment will be so modified.

8 Is there any further discussion?

9 Are you ready for the question?

10 The Clerk will ring the quorum bell.

11 The question arises on the adoption of
12 Amendment No. 15. A vote Aye is a vote in favor of the
13 amendment. A vote No is a vote against.

14 Cast your votes.

15 Has every delegate voted?

16 Does any delegate desire to change his vote?

17 The Clerk will record the vote.

18 There being eighty-three votes in the affirmative
19 and twenty-two in the negative, the motion is carried.
20 The amendment is adopted.

21 This concludes all amendments that the Chair

1 has. Are there any other amendments?

2 (No response)

3 THE PRESIDENT: The Clerk will ring the quorum
4 bell.

5 The Sergeant at Arms will get all delegates
6 from the corridors and the lounge.

7 For what purpose does Delegate Maurer rise?

8 DELEGATE MAURER: Personal privilege.

9 THE PRESIDENT: State the privilege.

10 DELEGATE MAURER: I would like the Convention
11 to welcome another brave visitor from Montgomery County,
12 Mrs. Frank Proctor, a member of the Constitutional
13 Convention Commission.

1 THE PRESIDENT: Delegate Bard.

2 DELEGATE BARD: I rise for a point of personal
3 privilege.

4 THE PRESIDENT: State the privilege.

5 DELEGATE BARD: Bernard Glatt, who is
6 associated with me at the Community College of Baltimore
7 came down early this afternoon with the hopes that we
8 would leave in one hour. He is a very brave soul and is
9 still here and I hope that you will applaud all of his
10 courage. (Applause)

11 THE PRESIDENT: Are there any other amendments
12 to any part of the Committee report S&E-18? After this
13 point the Chair will rule out of order any amendments
14 intended to be offered. Are there any to any part of the
15 Constitution or either of the schedules?

16 (There was no response.)

17 THE PRESIDENT: The Chair hears no amendments.

18 We will proceed to vote in the manner indicated
19 earlier.

20 Before taking any vote, the Chair will have a
21 quorum call to establish the number of delegates present

1 and requests that every delegate answer the quorum call.
2 We will then proceed to a final vote, article by article.
3 Any questions as to division, or any calls for division must
4 be made before the vote and the Chair will rule on whether
5 or not the division is proper. That means that if you
6 have a question or desire division as to any particular
7 article, you shall ask for it when the article is the
8 main question before you and before it is put to a vote.

9 The Chair will delay a little longer than usual
10 in asking for whether any delegate desires to change his
11 vote and whether every delegate has voted, simply to make
12 sure that you have not inadvertently voted the wrong way.
13 Please, therefore, when you have voted, look at the board
14 to make sure you have voted your intentions correctly.

15 Under the rules, there will not be an opportunity
16 to explain votes after the voting has begun or after the
17 voting has concluded. If, therefore, you desire to explain
18 your vote, you must do so before the article is put to a
19 vote and in the debate period.

20 The Clerk will ring the quorum bell once more.

21 The Chair calls for a quorum.

1 Apparently every delegate in the chamber has
2 answered quorum call. The Clerk will record the quorum
3 call.

4 There are 128 delegates present. The Chair is
5 advised that one of the delegates informed of the fact of
6 a quorum is not here and is on his way.

7 Delegate Smith.

8 DELEGATE J. H. SMITH: Mr. Chairman, a point of
9 personal privilege.

10 THE PRESIDENT: State the privilege.

11 DELEGATE J. H. SMITH: We have in the gallery
12 with us the parents of Janet Shebd and I would like the
13 Convention to give them the usual warm welcome, please.
14 (Applause)

15 THE PRESIDENT: The Chair is advised that the
16 delegate in question is not here.

17 The first question will arise on the preamble.
18 The question arises on the preamble, on the adoption of
19 the preamble, on third and final reading.

20 Is there any discussion?

21 Are you ready for the question?

1 The question arises on the adoption on third and
2 final reading of the preamble. A vote Aye is a vote in
3 favor of the adoption of the preamble; a vote No is a vote
4 against.

5 Cast your votes.

6 Has every delegate voted?

7 Does any delegate desire to change his vote?

8 The Clerk will record the vote.

9 There being 123 votes in the affirmative and
10 three in the negative, the motion is carried. The preamble
11 is adopted on third and final reading.

12 The question now arises on the adoption of Article
13 1, on third and final reading.

14 Is there any discussion?

15 Are you ready for the question?

16 The question arises on the adoption on third and
17 final reading of Article 1. A vote Aye is a vote in favor
18 of the adoption of the Article; a vote No is a vote against.

19 Cast your vote.

20 Has every delegate voted?

21 Does any delegate desire to change his vote?

1 The Clerk will record the vote.

2 There being 124 votes in the affirmative and
3 two in the negative; the motion is carried. Article 1 is
4 adopted on third and final reading.

5 The question now arises on the adoption on third
6 and final reading of Article 2.

7 Is there any discussion?

8 Are you ready for the question?

9 The question arises on the adoption on third
10 and final reading of Article 2. A vote Aye is a vote in
11 favor of the adoption of the article; a vote No is a vote
12 against.

13 Cast your votes.

14 Has every delegate voted?

15 Does any delegate desire to change his vote?

16 The Clerk will record the vote.

17 There being 118 votes in the affirmative and
18 six in the negative, the motion is carried. Article 2 is
19 adopted, finally adopted on third and final reading.

20 The question now arises on the adoption on third
21 and final reading of Article 3.

1 Is there any discussion?

2 Are you ready for the question?

3 The question arises on the adoption on third
4 and final reading of Article 3. A vote Aye is a vote in
5 favor of the adoption of the article; a vote No is a vote
6 against.

7 Cast your votes.

8 Has every delegate voted?

9 Does any delegate desire to change his vote?

10 The Clerk will record the vote.

11 There being 109 votes in the affirmative and
12 fourteen in the negative, the motion is carried. Article
13 3 is finally adopted on third and final reading.

14 The question now arises on the adoption on
15 third and final reading of Article 4.

16 Is there any discussion?

17 Are you ready for the question?

18 The question now arises on adoption on third and
19 final reading of Article 4. A vote Aye is a vote in favor
20 of the adoption of the article; a vote No is a vote
21 against.

1 Cast your votes.

2 Has every delegate voted?

3 Does any delegate desire to change his vote?

4 The Clerk will record the vote.

5 There being 118 votes in the affirmative and
6 four in the negative, the motion is carried. Article 4
7 is adopted on third and final reading.

8 The question now arises on the adoption on third
9 and final reading of Article 5.

10 Is there any discussion?

11 Are you ready for the question?

12 The question arises on the adoption on third and
13 final reading of Article 5. A vote Aye is a vote in favor
14 of the adoption of the article; a vote No is a vote
15 against.

16 Cast your votes.

17 Has every delegate voted?

18 Does any delegate desire to change his vote?

19 The Clerk will record the vote.

20 There being 101 votes in the affirmative and
21 twenty in the negative, the motion is carried. Article 5

1 is adopted on third and final reading.

2 The question now arises on the adoption of
3 Article 6 on third and final reading.

4 Is there any discussion?

5 Delegate Kosakowski.

6 DELEGATE KOSAKOWSKI: Mr. President, am I in
7 order at this time to ask the Chair for a division in
8 reference to the lottery?

9 THE PRESIDENT: You are.

10 DELEGATE KOSAKOWSKI: I so move.

11 THE PRESIDENT: You request a division of Section
12 6.16 in Article 6, Delegate Kosakowski?

13 DELEGATE KOSAKOWSKI: Yes, sir.

14 THE PRESIDENT: The Chair rules that the question
15 is divisible. The Chair will first submit the adoption of
16 Section 6.01 to 6.16 inclusive of Article 6, and then
17 separately submit the question of the adoption of Section
18 6.17 of Article 6.

19 The question now arises on the adoption of
20 Section 6.01 to Section 6.16 inclusive of Article 6.

21 Is there any discussion?

1 Are you ready for the question?

2 The question arises on the adoption of Sections
3 6.01 to 6.16 inclusive of Article 6. A vote Aye is a
4 vote in favor of the adoption of these sections of Article
5 6; a vote No is a vote against.

6 Cast your votes.

7 Has every delegate voted?

8 Does any delegate desire to change his vote?

9 The Clerk will record the vote.

10 There being 115 votes in the affirmative and
11 nine in the negative, the motion is carried and Sections
12 6.01 to 6.16 inclusive of Article 6 are adopted on
13 third and final reading.

14 The question now arises on the adoption on
15 third and final reading of Section 6.17.

16 Is there any discussion?

17 Delegate Kosakowski.

18 DELEGATE KOSAKOWSKI: Mr. President, and Members
19 of this Convention: In lieu of what happened yesterday
20 and today in cleaning up the Constitution, I feel that this
21 provision does not belong in a modern constitution.

1 I don't want to belabor the issue. You are
2 all aware of how we are going to vote. I appeal to the
3 members here, and even the Committee members on Finance,
4 to let you know you are not bound by any vote that you
5 had cast in the Committee. None of us are bound by any
6 vote cast in the Committee of the Whole. I appeal to the
7 membership in your wisdom, and I hope your generosity in
8 deleting this section, because it does not belong in the
9 Constitution.

10 THE PRESIDENT: Delegate Sherbow.

11 DELEGATE SHERBOW: Mr. President, Ladies and
12 Gentlemen, I earnestly hope that you will vote for this
13 provision. It was debated fully before the Committee on
14 State Finance and Taxation and came out with an over-
15 whelming vote in its favor.

16 It was debated here on the floor and an amendment
17 was passed. It was debated on second reading and was
18 passed.

19 I think you bear in mind that there is no
20 reason now to change, and while we require seventy-two
21 votes, I think you also should bear in mind that this is at

1 the present time a part of our present Constitution, and
2 if you delete this, you should also bear in mind that all
3 of the localities, the cities and the counties, without
4 waiting for the General Assembly, may proceed with their
5 own lotteries.

6 This is different from saying leave it up to
7 the General Assembly. It just is no longer a valid argu-
8 ment.

9 I ask you to bear in mind that we cannot submit
10 these lottery proposals that the subdivisions as well as
11 the General Assembly may pass to referendum because they
12 will be attached to a money appropriation, and this will
13 prevent the people from having an opportunity to vote on it.

14 I strongly feel on this subject, but I ask you,
15 with no emotion, with nothing but logic, to bear in mind
16 that there is no reason for taking this out of the present
17 Constitution and taking it out now at this late stage in
18 these proceedings.

19 I strongly urge you to vote for it and let us
20 go before the people with a Constitution that they can
21 accept. I hope we approve this section.

1 THE PRESIDENT: Any other delegate desire to
2 speak in opposition to the section?

3 Delegate Johnson.

4 DELEGATE JOHNSON: I move the previous question,
5 Mr. President.

6 (Whereupon, the motion was seconded.)

7 THE PRESIDENT: The question arises on the motion
8 to order the previous question on the adoption of Section
9 9.17. A vote Aye is a vote in favor; a vote No is a vote
10 against -- I am sorry -- all in favor, signify by saying
11 Aye; contrary, No.

12 The Ayes have it. It is so ordered.

13 The question arises on the adoption on third and
14 final reading of Section 6.17, on page 42. A vote Aye is
15 a vote in favor of the adoption of the section; a vote No
16 is a vote against.

17 Cast your votes.

18 Has every delegate voted?

19 Does any delegate desire to change his vote?

20 The Clerk will record the vote.

21 Delegate Sherbow.

1 DELEGATE SHERBOW: Is it in order for me to
2 move now for a reconsideration of this vote?

3 THE PRESIDENT: It is of course in order to
4 move it. Under the rule, unless the rules are suspended,
5 the motion would have to lie over for two session days.
6 You may move it.

7 DELEGATE SHERBOW: Mr. Chairman, I move reconsid-
8 eration and simultaneously move a suspension of the rules
9 which would interfere with an immediate consideration of
10 the motion to reconsider.

11 I would like to state my reasons, if I may.

12 I think if you have sixty-eight votes and need
13 the seventy-two, I would most earnestly ask that you
14 reconsider and cast your vote favorably.

15 THE PRESIDENT: For what purpose does Delegate
16 Kosakowski rise?

17 DELEGATE KOSAKOWSKI: A point of parliamentary
18 inquiry.

19 THE PRESIDENT: State the inquiry.

20 DELEGATE KOSAKOWSKI: Am I in order to speak
21 in opposition to the motion just made?

1 THE PRESIDENT: The motion to suspend rules
2 is not debatable. The person making the motion can
3 state the reason for the motion, but that is all.

4 The question arises on the motion to reconsider
5 the vote by which Section 6.17 failed of adoption and to
6 suspend all interfering rules to permit immediate considera-
7 tion of that motion.

8 The Chair will submit the motion separately.
9 The first motion will be the motion to suspend the rules.
10 The motion to suspend the rules is adopted.

11 If the motion to suspend the rules is adopted,
12 we will then proceed to an immediate consideration of the
13 other motion. If the motion to suspend the rules is not
14 adopted, then the motion to reconsider will lay over under
15 the rules.

16 For what purpose does Delegate Johnson rise?

17 DELEGATE JOHNSON: Parliamentary inquiry.

18 THE PRESIDENT: State the inquiry.

19 DELEGATE JOHNSON: What affirmative vote is
20 required on each question submitted?

21 THE PRESIDENT: On the motion to suspend the

1 rules, an absolute majority, seventy-two votes is required.

2 On the motion to reconsider, the same vote will
3 be required so that the seventy-two votes is required on
4 each motion.

5 Are you ready for the question?

6 The question arises, first, on the motion to
7 suspend all interfering rules so as to permit immediate
8 consideration of the motion to reconsider the vote by which
9 Section 6.17 failed of adoption.

10 A vote Aye is a vote to suspend the rules, a
11 vote No is a vote against.

12 Cast your vote.

13 The Clerk will record the vote.

14 There being eighty-nine votes in the affirmative
15 and thirty-three in the negative, the interfering rules
16 are suspended.

1 THE PRESIDENT: The question now arises on the
2 motion to reconsider the vote by which Section 6.17 failed
3 of adoption. Is there any discussion? This motion is de-
4 batable.

5 Delegate James.

6 DELEGATE JAMES: I want to argue on the motion to
7 reconsider.

8 THE PRESIDENT: You may proceed.

9 DELEGATE JAMES: Mr. President and members of the
10 Convention: You may not consider that this is a particularly
11 important vote, but I tell you that it is very conceivable
12 that the adoption of the Constitution is at stake, there are
13 many people in the State of Maryland who don't want to see
14 Maryland plunged into a gambling fiesta or a future in
15 which Maryland will become an eastern Las Vegas. This is
16 definitely in the offing. In the last session I believe a
17 lottery bill passed the House of Delegates. Pressures on
18 the General Assembly are enormous. Since I have been in the
19 General Assembly each session we have to resist the pressure
20 of gambling and gamblers.

21 There are many people in this State who will

1 oppose this Constitution if they feel that gambling will be
2 licensed by the State, gambling will be licensed by the
3 local government, that the good name of Maryland will be
4 ruined. We have gone through one battle trying to get rid
5 of slot machines. You don't know what it is like in the
6 General Assembly to have these people on your necks all the
7 time, and I am telling you members of the Convention that
8 this is a very serious vote and a vote to keep this clause
9 out of the Constitution could conceivably defeat the Con-
10 stitution. I am just urging you to vote for this provision.

11 THE PRESIDENT: Delegate Kosakowski.

12 DELEGATE KOSAKOWSKI: Mr. President and delegates
13 of this Convention: What is a legislator for if not to bear
14 pressures from people? You speak about pressures. What
15 has happened right within this Convention? If it is the
16 will of the people, the will shall speak.

17 I think we all have a responsibility here. Don't
18 let anybody tell you the old bugaboo of Mafia and gamblers
19 running all over the State of Maryland. That type of a
20 statement is a scary one.

21 When I asked for a division of this section, Mr.

1 President. and my fellow delegates, I did it not to delay
2 this Convention. All I wanted as my right as a Delegate
3 here is to be given the last consideration on a vote. We
4 are not voting for or against lottery. We are voting for
5 the principle of whether or not this provision should be in
6 this Constitution. And as the votes were taken yesterday,
7 today, and many other days, I have seen delegates change
8 their mind. Don't let anyone scare you or threaten you with
9 the old bugaboos.

10 I guess I, like anyone else, get emotional on some
11 issues as others have shown. I guess you can't help your-
12 self, but I ask the delegates here in all fairness and with
13 your good judgment and wisdom--and I see here in this
14 assembly at this Convention, Mr. President, some of the best
15 minds of this State and of this nation.

16 I cherish that I am a delegate at this Con-
17 vention, and I was willing to go out and sell this Con-
18 vention whether or not I got my lottery bill, and I will
19 still do it regardless of the outcome of this vote, but we
20 all speak of fairness. Don't become mezmerized any longer.
21 Please vote your conscience.

1 THE PRESIDENT: Delegate Ulrich.

2 DELEGATE ULRICH: Mr. President and ladies and
3 gentlemen of this Convention, I implore you to leave this
4 in the Constitution. I am a resident of this county. It is
5 a gambling county. The gambling in this county has been a
6 cancer on our growth. I sat in the balcony the night the
7 slot machine bill came up for a final vote. I know who was
8 in the balcony. Delegates on this floor were afraid for
9 their lives when they voted to phase out the slot machines.
10 Since the phaseout bill there has been watering down, and,
11 believe me, ladies and gentlemen, I will believe that those
12 slot machines are gone when they are gone. They are supposed
13 to be gone by the 1st of July of this year. I will believe
14 it when they are gone, not before.

15 I implore you to leave this in the Constitution.

16 THE PRESIDENT: Delegate Johnson.

17 DELEGATE JOHNSON: Mr. President and ladies and
18 gentlemen of this Convention, I am neither for or against
19 a lottery, but I am unequivocally opposed to putting a ban
20 of this type into our Constitution. In my very humble
21 opinion, this Constitution is in trouble in certain areas of

1 the State because we don't know what it is going to cost.
2 We are aware of the fact that it is going to cost a great
3 deal, and in my opinion if we would delete this section from
4 the Constitution, we would pick up far, far, far more votes
5 than we would lose if we would leave it in. Let us keep
6 the issue as clear as we possibly can.

7 This section, if we leave it in the Constitution,
8 neither prohibits nor permits slot machines. It hasn't a
9 thing to do with slot machines or gambling of any type. The
10 only thing it prohibits is a State-operated lottery. It
11 just prohibits the citizens of this State to possibly raise
12 the necessary funds in the future, in the distant future I
13 submit, to pay for this Constitution and to pay for the
14 provisions of this Constitution.

15 I earnestly urge you to delete this section from
16 the Constitution.

17 THE PRESIDENT: Delegate James Clark.

18 DELEGATE JAMES CLARK: Mr. President and members
19 of the Convention, I rise to ask you to keep this provision
20 in the Constitution. I would like to emphasize and under-
21 score the statements made by my colleague from Harford

1 County here. He has been around a long time, and what he
2 has said I know to be true, and I think if we delete this
3 provision at this time, we are playing Russian roulette
4 with this document. I think it is too great a chance to
5 take, and I beg of you to keep this provision in the Con-
6 stitution.

7 THE PRESIDENT: Any other delegate desire to
8 speak in opposition?

9 Delegate Koger.

10 DELEGATE KOGER: Mr. Chairman and ladies and
11 gentlemen, I sincerely hope that you will take out of the
12 Constitution this ban against lotteries. First of all, I
13 feel that it has no place in the Constitution. In the
14 second place, there is no prohibition of other sins we have
15 in the Constitution. Why pick this one out and say we are
16 going to have a ban on lotteries.

17 In my opinion there are many reasons why the
18 people of Maryland should have an opportunity to decide for
19 themselves where they should have it, and the best place to
20 do it is through the General Assembly.

21 THE PRESIDENT: Any other delegate desire to

1 speak in support of the section?

2 Delegate Bamberger.

3 DELEGATE BAMBERGER: Mr. Chairman, I share
4 Delegate James' concern that this does cause continuing
5 pressure on the Legislature. I also share Delegate Ulrich's
6 concern about private lotteries.

7 What has particularly bothered me about this --
8 and I hope that the chairman of the Committee on Finance
9 and Taxation would respond to this -- was when we adopted
10 this on second reading, Mr. Clarence Miles, the chairman of
11 the Governor's Commission studying gambling and crime in
12 this State, somehow or other read this provision to mean
13 that we had authorized the operation of private lotteries.
14 That has bothered me, and I think it has bothered some other
15 delegates.

16 I hope Delegate Sherbow would respond. I did
17 not understand that. I have never heard that particular
18 problem debated on this floor.

19 THE PRESIDENT: Any other delegate desire to
20 speak in opposition?

21 Delegate Hardwicke.

1 DELEGATE HARDWICKE: Mr. President and ladies
2 and gentlemen, all of the reasons that have been advanced
3 for keeping this plank in this Constitution it seems to me
4 are highly fallacious. First of all it is said that lotteries
5 are evil. All right, maybe they are. Then why not collect
6 all of the things that we think are evil and put a plank in
7 the Constitution about them and forbid them. Why pick out
8 this particular item?

9 How much time did we have in our committees to
10 demonstrate whether it was evil or not? How much do we know
11 and how much has been provided for us individually to show
12 us?

13 Secondly, the Legislature would be under pressure.
14 All right, let us pick out all of the things that would put
15 the Legislature under pressure and forbid those in the
16 Constitution.

17 I submit that we have not attempted in any area
18 to pick out the evils. We have not tried to protect the
19 Legislature from pressure. This is an exceptional thing
20 that is asked of us here, and there is no reason advanced for
21 the exception.

1 Now, let me say this, we are in our closing hours
2 of this Convention. Think back in your minds of the things
3 that you would like to have seen in this Constitution which
4 have been knocked out by those people who say it is not
5 proper for a Constitution to contain them. Think back.
6 How many things have you lost on that argument? And I urge
7 you, where you have lost the things that you have wanted on
8 that argument, the argument ought to be applied straight
9 across the board, and nonconstitutional things, things not
10 of constitutional ~~stature~~, should be omitted from this
11 document. That is the sole test.

12 If you were in the Legislature, yes, I would be
13 here urging you to vote against lotteries. This is not a
14 legislature. It is a Constitutional Convention. It has no
15 business in the Constitution.

16 THE PRESIDENT: Delegate Gleason.

17 DELEGATE GLEASON: Mr. Chairman and fellow
18 delegates, I am frankly amazed that there are 44 people in
19 this assemblage who would take what I consider a very likely
20 possibility of throwing away four months of work to drop
21 out of the Constitution at this time something that has been

1 in there for decades and decades. I think that perhaps we
2 are forgetting one fact that Chairman Sherbow mentioned when
3 this matter was before us on second reading. We sit here
4 today with the adoption of this Constitution with a new
5 principle governing local governments. That principle is
6 one of shared power. No longer do we talk of lotteries in
7 connection with our State Government, but we must consider
8 lotteries in connection with powers shared equally with the
9 State Government by 24 counties of the State.

10 We don't need time on this issue. We have gone
11 through a decade of time on slot machines in the State of
12 Maryland, and by golly, if you think this is not an issue
13 that every minister, every clergyman in the State is going
14 to campaign on.-- it is an emotional issue, I am emotional
15 about it, so is Delegate Kosakowski.

16 Let us leave it the way it is if you want to
17 protect what you have done for the legislative and the
18 executive and the judicial. If you want it all to go down
19 the drain, just vote to take this provision out.

20 THE PRESIDENT: Any other delegate desire to
21 speak in opposition to the section?

1 Delegate Kahl.

2 DELEGATE KAHL: Mr. Chairman, may I move the
3 previous question?

4 THE PRESIDENT: Delegate Sherbow.

5 DELEGATE SHERBOW: I know it is not debatable,
6 but the question was put to me --

7 THE PRESIDENT: Delegate Kahl, would you withdraw
8 your motion long enough to let Delegate Sherbow make a
9 comment with respect to the question asked by Delegate
10 Bamberger?

11 DELEGATE KAHL: Yes, I will.

12 DELEGATE SHERBOW: When the proposal came from
13 the committee, there was an outright ban on all lotteries.
14 There was some discussion as to whether those churches,
15 fire departments and others who were conducting these
16 things -- that all kinds of lottery would be affected.

17 The chairman of the Committee on Finance and
18 Taxation gave as his opinion that that type of bingo
19 operation was not included in the definition of lottery.
20 Thereafter, the proposal from our committee was amended and
21 thereafter it turned out that the Court of Appeal's

1 decision showed that lottery did not include bingo.

2 As it stands now, this proposal does these
3 things. Neither the State nor any unit of a local govern-
4 ment shall operate or authorize a lottery for the purpose
5 of financing any expense of government.

6 Mr. Miles' statement, and I have a great deal of
7 respect for Mr. Miles, I did not read it as having the same
8 meaning that Delegate Bamberger had, but as I recall it, it
9 was something along these lines that it wouldn't stop the
10 local subdivisions or the State from authorizing private
11 lotteries.

12 Now if the local subdivisions or the State are
13 going to allow churches to continue with bingo, they have
14 already done it. They know now it is not included in
15 lottery. I could not conceive of local subdivisions since
16 they could not raise the money for themselves authorizing
17 somebody else to have a lottery for his own private benefit.
18 I doubt if they would remain in office very long. If the
19 State Legislature can't raise money by a lottery for some
20 so-called educational purpose so that they would hope the
21 burdens of what the costs of this Constitution would be

1 would be taken off the taxpayers and put on other people,
2 I doubt that they would take that right and give it to some
3 private organization. There at least the Legislature would
4 know and so would the subdivision legislatures know also
5 that they could not give away the people's rights. I do not
6 conceive it as having anything like the meaning that has
7 been suggested with respect to the statement by Mr. Miles.

8 Mr. Chairman, I have been given the time solely
9 to answer the question. May I, and I don't want to ask
10 this **except** --

11 THE PRESIDENT: Delegate Sherbow, I think
12 Delegate Kahl graciously withdrew her motion so you could
13 answer the question. I don't think we should put her to
14 the task of deciding that she yield further.

15 DELEGATE SHERBOW: I shan't. I yield as
16 graciously and as hopefully as she has.

17 DELEGATE KAHL: I move the previous question.

18 THE PRESIDENT: The question arises on moving
19 the previous question by which Section 6.17 was not adopted.
20 The vote now only is on reconsideration. If the motion
21 carries, Section 6.17 will again be before you. If it

1 fails, it will not.

2 For what purpose does Delegate Smith rise?

3 DELEGATE MARVIN SMITH: Point of order. The
4 motion before us is a motion to order the previous question.

5 THE PRESIDENT: Thank you very much. The question
6 before us is a motion to order the previous question. All
7 in favor signify by saying Aye; opposed, No.

8 The Ayes have it and it is so ordered.

9 The question arises on the motion that 6.17 was
10 not adopted. The motion is to reconsider. If the motion
11 carries, then 6.17 will be before you. If it fails, then
12 it will not be before you. A vote Aye is a vote in favor
13 of reconsideration; a vote No is a vote against. Cast your
14 vote.

15 (Whereupon, a rollcall vote was taken.)

16 THE PRESIDENT: Has every delegate voted?

17 Does any delegate desire to change his vote?

18 The Clerk will record the vote.

19 There being 80 votes in the affirmative and 40
20 in the negative, the motion is carried and the vote by
21 which Section 6.17 failed of adoption is reconsidered and

1 Section 6.17 is now before you.

2 The question arises on the adoption of Section
3 6.17. Is there any discussion?

4 (Cries of Question.)

5 THE PRESIDENT: Are you ready for the question?

6 The question arises on the adoption of Section
7 6.17. A vote Aye is a vote in favor of the adoption of the
8 section. A vote No is a vote against.

9 Cast your vote.

10 (Whereupon, a rollcall vote was taken.)

11 THE PRESIDENT: Has every delegate voted? Does
12 any delegate desire to change his vote? The Clerk will
13 record the vote.

14 There being 76 votes in favor and 43 votes
15 against, the motion is carried.

16 Section 6.17 is adopted on third and final
17 reading.

18 The question now arises on the adoption of
19 Article 7, adoption on third and final reading of Article
20 7. Is there any discussion? Are you ready for the question?

21 The question arises on the adoption on third and

1 final reading on Article 7. A vote Aye is a vote in favor
2 of the adoption of Article 7. A vote No is a vote against.

3 Cast your vote.

4 (Whereupon, a rollcall vote was taken.)

5 THE PRESIDENT: Has every delegate voted?

6 Does any delegate desire to change his vote?

7 The Clerk will record the vote.

8 There being 119 votes in the affirmative and 7
9 in the negative, the motion is carried and Article 7 is
10 adopted on third and final reading.

11 The question now arises on the adoption of
12 Article 8 on third and final reading. Is there any dis-
13 cussion? Are you ready for the question?

14 The question arises on the adoption on third and
15 final reading of Article 8. A vote Aye is a vote in favor
16 of the adoption of the article. A vote No is a vote against.

17 Cast your vote.

18 (Whereupon, a rollcall vote was taken.)

19 THE PRESIDENT: Does any delegate desire to change
20 his vote?

21 The Clerk will record the vote.

1 There being 123 votes in the affirmative and 2 in
2 the negative, the motion is carried and Article 8 is
3 adopted on third and final reading.

4 The question now arises on the adoption of
5 Article 9 on third and final reading.

6 Is there any discussion?

7 Delegate Burdette.

8 DELEGATE BURDETTE: Mr. President, I ask for a
9 division or separate vote on Section -- as I have it
10 numbered -- Section 9.07 or however it is numbered or re-
11 numbered -- Consumer Protection.

12 THE PRESIDENT: The Chair rules that the division
13 called for is proper and the question is divisible.

14 For what purpose does Delegate Sollins rise?

15 DELEGATE SOLLINS: Is it appropriate at this time
16 to ask for a division of Section 9.01?

17 THE PRESIDENT: The Chair would like to confer
18 with Delegate Gallagher, Delegate Morgan and Delegate Mudd.

19 The Clerk will ring the quorum bell.

20 The Convention will please come to order.

21 The Chairman conferred with the chairman

1 of the Committee on the Legislative Branch, the chairman of
2 the Committee on the Executive Branch, and the chairman of
3 the Committee on the Judicial Branch to make doubly sure
4 that there was no provision in any of those articles which
5 were in any way dependent upon the oath provided for in
6 Section 9.01.

7 There are a number of sections in those articles
8 which provide for the election of officers and provide for
9 the taking of office upon a person qualifying. The Chair
10 does not interpret that as meaning that the section will be
11 without meaning if this section is not adopted and therefore
12 rules that the question is divisible.

13 Any other requests for division?

14 Delegate Chabot.

15 DELEGATE CHABOT: I have a parliamentary in-
16 quiry.

17 THE PRESIDENT: State the inquiry.

18 DELEGATE CHABOT: As I understand, the requirement
19 for 72 votes for adoption is a requirement imposed upon us
20 by the General Assembly and our rules only as to entire
21 articles and divisions. The effect of the rule that we have

1 divided upon is that we not require that the adoption of a
2 section must also have 72 votes.

3 My inquiry is whether or not under these circum-
4 stances a division which would result in our taking a vote
5 upon a single section by itself is permissible.

6 THE PRESIDENT: I am not sure I followed your
7 reasoning. Will you state it again, please?

8 DELEGATE CHABOT: The effect of the application
9 of --

10 THE PRESIDENT: May I please have order. It is a
11 very important question.

12 Delegate Chabot.

13 DELEGATE CHABOT: The effect of the application
14 of Rule 51 to the circumstances just now before us would re-
15 quire that 72 votes -- 72 affirmative votes -- must be had
16 before these single sections may be adopted. The purpose of
17 the General Assembly and the purpose of our rules, especially
18 since we just recently amended them, was to insure that as
19 to adoptions of parts of this document, 72 votes would be
20 required only in the case of the entire document and articles
21 or divisions, and we specifically amended the rules to

1 eliminate a possible interpretation that a section might
2 have to have 72 votes in order to be adopted. I suggest
3 therefore the division of the question in such a way that we
4 end up voting on a single section and requiring 72 votes is
5 contrary to the intent of our rules.

6 THE PRESIDENT: Delegate James.

7 DELEGATE JAMES: Delegate Chabot conceivably could
8 be right, but we cannot afford to gamble on this argument,
9 on the adoption of his argument. The legislation says each
10 article and each division, as I recall the words, must be
11 voted on separately. Now, if we don't have 72 votes for
12 this particular section if the question is divided and we
13 adopt the Constitution, it would certainly invite a lawsuit
14 when the people attacking the document can say that a sub-
15 stantial question in the adoption of the Constitution was not
16 adopted by 72 votes, and it is not a risk worth running.

17 THE PRESIDENT: Delegate James, I don't think
18 that is the point that Delegate Chabot has in mind. If I
19 follow his reasoning, it is that since we have amended Rule
20 59 so as not to require a vote by sections, he states for
21 the purpose of avoiding a necessity of having 72 votes on

1 a section that therefore an interpretation of Rule 51,
2 which permits the division of the question so that under the
3 enabling act 72 votes would be required, is improper. In
4 other words, that the question cannot be divided.

5 Is that your point, Delegate Chabot?

6 My difficulty is that while you state the purpose
7 of the amendment was to avoid this particular problem, the
8 Chair does not conceive or that certainly that was not its
9 only purpose. The real purpose was to avoid the necessity
10 of submitting to separate vote each and every section of
11 the Constitution.

12 The question of whether Section 51 should remain
13 notwithstanding the Amendment of 59 was considered and no
14 amendment was offered deliberately. The Chair therefore
15 feels that the division is proper. If the division is
16 proper, then unquestionably under the enabling act the vote
17 of 72 votes is required.

18 The Chair has some concern about another question
19 not related to either of those.

20 (Whereupon, the Convention suspended for a few
21 minutes.)

1 THE PRESIDENT: The Convention will please come
2 to order.

3 The Clerk will ring the quorum bell.

4 Will the Sergeant at Arms please get every
5 delegate in the chamber promptly.

6 The Convention will please come to order.

7 Sergeant at Arms, are there any delegates in the
8 lounge?

9 SERGEANT AT ARMS: No, they are all in.

10 THE PRESIDENT: The difficulty that the Chair had
11 with respect to the parliamentary question arises out of the
12 combination of the enabling act requiring an absolute
13 majority on every article or division and the requirement of
14 our rule that each article be submitted separately. The
15 Chair felt that in all probability the procedure followed
16 with respect to Article 6 having the two separate votes and
17 not resubmitting the entire article to a vote was proper.
18 The Parliamentarian feels very strongly that it was proper,
19 but because the question is one of such vital importance and
20 we do not want any question to be raised as to the legality
21 of adoption, the Chair proposes to submit it to you for

1 another vote so that it will be beyond question the adoption
2 of all of Article 6 including all sections, Section 6.01
3 to 6.17 inclusive.

4 Before doing that, so that we will know delegates
5 are present, we will first have a quorum call. Please
6 answer quorum call.

7 Has every delegate answered quorum call?

8 Very well, the Clerk will record the quorum call.
9 125 delegates are present.

10 To remove any possible doubt, although the Chair
11 does not believe that this vote is really necessary, the
12 Chair will submit to you for adoption on third and final
13 reading all of Article 6 comprising Section 6.01 to 6.17
14 inclusive.

15 A vote Aye is a vote in favor of the article. A
16 vote No is a vote against.

17 A vote in favor of the adoption of the article on
18 third and final reading. A vote No is a vote against.

19 Cast your vote.

20 (Whereupon, a rollcall vote was taken.)

21 THE PRESIDENT: Has every delegate voted? Does

1 any delegate desire to change his vote?

2 The Clerk will record the vote.

3 There being 107 votes in the affirmative and 13
4 in the negative, the motion is carried and all of Article
5 6 comprising Sections 6.01 to 6.17 are adopted on final
6 reading.

7 There is a division as to Section 9.01 and 9.07
8 which has been called for. The Chair rules that the sections
9 are divisible. Are there any other divisions as to Section
10 9 called for? The Chair will first submit Section 9.01 and
11 then Section 9.07 and then submit the remainder of the
12 article.

13 The question now arises on the adoption of
14 Section 9.01 on third and final reading.

15 Is there any discussion?

16 (Cries of Question.)

17 THE PRESIDENT: Are you ready for the question?

18 Delegate Sollins.

19 DELEGATE SOLLINS: Mr. President, I asked for this
20 division on this question because I feel that this oath is
21 not a necessary and general part of this Constitution. It

1 is not necessary to have before the voters if we are going
2 to do what we have accomplished so far up to this time.
3 There has been considerable doubt expressed as to the
4 legality and constitutionality of this oath as it is drafted
5 in Section 9.01. If it is offensive to one responsible
6 person in our Maryland community, if it will be embarrassing
7 to one Maryland person in our community, then I find it
8 offensive, and I suggest we leave it out.

9 THE PRESIDENT: Are you ready for the question?

10 (Cries of Question.)

11 THE PRESIDENT: The question arises on the adoption
12 of Section 9.01 on third and final reading. The Clerk will
13 ring the quorum bell?

14 The question arises on the adoption of Section
15 9.01 on third and final reading. A vote Aye is a vote in
16 favor of the adoption of Section 9.01. A vote No is a vote
17 against.

18 Cast your vote.

19 (Whereupon, a rollcall vote was taken.)

20 THE PRESIDENT: Has every delegate voted?

21 Does any delegate desire to change his vote?

1 The Clerk will record the vote.

2 There being 95 votes in the affirmative and 21 in
3 the negative, the motion is carried.

4 Section 9.01 is adopted on third and final read-
5 ing.

6 The question now arises on the adoption on third
7 and final reading of Section 9.07. Is there any discussion?

8 Delegate Bard.

9 DELEGATE BARD: I have not spoken for a long
10 period of time. I think you would expect me to rise on
11 this question.

12 We have dealt with the significance of this
13 question for people who need protection badly on many
14 occasions. We have dealt with the importance of what the
15 Federal Government is trying to do and the importance of
16 **creating** for the State laws that stand side by side with the
17 federal laws that implement the protection of those who are
18 in difficulty, and I would like to add one or two points
19 very hurriedly.

20 As the president of a college that deals with
21 young people, I can tell you this: In the six areas that

1 are described as critical areas, I as president of the
2 college deal concretely with young people who are forced
3 to work beyond their requirements in terms of their ability
4 to succeed at college because they are tied in with con-
5 tracts that tend to integrate a number of requirements and
6 insist that they go to work. I can tell you that the
7 tuition has gone up yearly because of lending laws that are
8 not clearly identified.

9 There has not been a single significant media
10 in the State of Maryland that has opposed keeping this in
11 the Constitution during all of our deliberations. On the
12 other hand, there have been literally thousands of people
13 who have stated the importance of this in terms of economic
14 rights.

15 I can also tell you that laboring people have
16 said if they do not have this whole concept of collective
17 bargaining at least they have this to hold on to, and these
18 are the words that have been stated to me.

19 We have stated in the hearing the importance of
20 natural resources. If we are going to do more for that
21 which is material than that which we do for people who cannot

1 succeed in college because they are tied in by legal re-
2 quirements with regard to borrowing and other legal require-
3 ments, I tell you that we have failed pretty badly.

4 The vote on all of these occasions has been an
5 increasing one. Some of us have said we will support the
6 agricultural bill which I did because I believe we should
7 do something for the farm people if it is balanced out with
8 that which we do for urban poor people. I cannot think of
9 any single item that offers hope to many thousands who will
10 not understand what we are doing in terms of the Judicial
11 Department but will understand this in the terms of the
12 simplicity of the man on the street.

13 We not only urge you in the strongest language
14 that I can to keep this but say to you that this is in-
15 tensely important if we are to succeed in many areas of this
16 State.

17 THE PRESIDENT: Any other discussion?

18 Delegate Darby.

19 DELEGATE DARBY: Mr. President, I call for the
20 previous question.

21 THE PRESIDENT: Thank you.

1 The question arises on the motion to order the
2 previous question on the adoption of Section 9.07. All in
3 favor signify by saying Aye; contrary, No.

4 The Ayes have it and it is so ordered.

5 The question arises on the adoption of Section
6 9.07. A vote Aye is a vote in favor of the adoption of the
7 section on third and final reading. A vote No is a vote
8 against.

9 Cast your vote.

10 (Whereupon, a rollcall vote was taken.)

11 THE PRESIDENT: Has every delegate voted?

12 Does any delegate desire to change his vote?

13 The Clerk will record the vote.

14 There being 101 votes in the affirmative and 15
15 in the negative, the motion is carried and Section 9.07 is
16 adopted on third and final reading.

17 The question now arises on the adoption on third
18 and final reading of Sections 9.02, 9.03, 9.04, 9.05, 9.06,
19 9.08, 9.09, and 9.10.

20 Is there any discussion?

21 (Cries of Question.)

1 THE PRESIDENT: The question is called for.
2 The question arises on the adoption on third and final read-
3 ing of Sections 9.02 through 9.10 excluding 9.07.

4 A vote Aye is a vote in favor of the adoption of
5 these sections. A vote No is a vote against.

6 Cast your vote.

7 (Whereupon, a rollcall vote was taken.)

8 THE PRESIDENT: Has every delegate voted?

9 Does any delegate desire to change his vote?

10 The Clerk will record the vote.

11 There being 122 votes in the affirmative and 2 in
12 the negative, the motion is carried and sections 9.02, 9.03,
13 9.04, 9.05, 9.06, 9.08, 9.09, and 9.10 are finally adopted.

14 Again while the Chair does not believe it is
15 necessary out of an abundance of precaution in view of the
16 rules of the Convention, the Chair now submits to you the
17 question of final adoption of Article 9 consisting of Sections
18 9.01 to 9.10 inclusive.

19 Is there any discussion?

20 The question arises on the adoption on third
21 and final reading of all of Article 9 consisting of Sections

1 9.01 to 9.10 inclusive.

2 A vote Aye is a vote in favor of the adoption.

3 A vote No is a vote against.

4 Cast your vote.

5 Have all delegates voted?

6 Does any delegate desire to change his vote?

7 There being 122 votes in the affirmative and 1
8 in the negative, the motion is carried and all of Article
9 consiting of 9.01 through 9.10 inclusive are adopted on
10 the third and final reading.

11 The question now arises on the adoption of
12 Article 10. Is there any discussion?

13 Are you ready for the question?

14 The question arises on the adoption on third and
15 final reading of Article 10.

16 A vote Aye is a vote in favor of the adontion of
17 the article. A vote No is a vote against.

18 Cast your votes.

19 (Whereupon, a rollcall vote was taken.)

20 THE PRESIDENT: Have all delegates voted?

21 Does any delegate desire to change his vote?

1 The Clerk will record the vote.

2 There being 119 votes in the affirmative and 5 in
3 the negative, the motion is carried.

4 Article 10 is adopted on the third and final
5 reading.

6 The question now arises on the adoption on third
7 and final reading of all of the Schedule of Transitional
8 Provisions.

9 Is there any discussion?

10 Are you ready for the question?

11 (Cries of Question.)

12 THE PRESIDENT: The question arises on the
13 adoption on third and final reading of the entire Schedule
14 of Transitional Provisions. A vote Aye is a vote in favor
15 of the adoption of the schedule. A vote No is a vote against.

16 Cast your vote.

17 (Whereupon, a rollcall vote was taken.)

18 THE PRESIDENT: Has very delegate voted?

19 Does any delegate desire to change his vote?

20 The Clerk will record the vote.

21 There being 115 votes in the affirmative and 7 in

1 the negative, the motion is carried, and the Schedule of
2 Transitional Provisions is adopted on the third and final
3 reading.

4 The question now arises on the adoption on third
5 and final reading of the Schedule of Legislation.

6 Is there any discussion?

7 Are you ready for the question?

8 The question arises on the adoption on third and
9 final reading of the Schedule of Legislation.

10 A vote Aye is a vote in favor of the adoption of
11 the schedule. A vote No is a vote against.

12 Cast your vote.

13 (Whereupon, a rollcall vote was taken.)

14 THE PRESIDENT: Has every delegate voted?

15 Does any delegate desire to change his vote?

16 The Clerk will record the vote.

17 There being 113 votes in the affirmative and 9 in
18 the negative, the motion is carried and the Schedule of
19 Legislation is adopted on third and final reading.

20 The Chair would like to confer with the two
21 Vice Presidents at the rostrum.

1 (The Convention suspended for a few minutes.)

2 THE PRESIDENT: This is the final vote. The
3 question now arises on the adoption on third reading and
4 final passage of the entire document consisting of the
5 Preamble, each of the 10 articles, the Schedule of
6 Transitional Provisions, and the Schedule of Legislation.

7 This is the final vote on the entire document,
8 Preamble, all 10 articles and the Schedule of Transitional
9 Provisions and the Schedule of Legislation.

10 Is there any discussion?

11 Delegate Dorsey.

12 DELEGATE DORSEY: Mr. President, I realize that
13 the dance is almost over and far be it from me on this
14 wintry night to delay the sweet refrain of "Home Sweet
15 Home."

16 I realize that this Convention has put a draft in
17 this document. I realize the great work that you have done,
18 Mr. President, but yet I feel that it represents a new move
19 in government in Maryland.

20 I know it may be heresy to say a kind word for
21 the old Constitution, yet I feel that it is a document which

1 embodies the wisdom and the experience of good government
2 in this State for the past century. What we are doing is
3 casting aside that document in its entirety for a new
4 document which takes new paths.

5 You say we have a stronger executive, a stronger
6 legislative body, a strong judiciary. That is all true,
7 but you are creating bodies further removed from the people
8 than they were under the old Constitution, and in this day,
9 when the burden of taxation rests so heavily on all state
10 governments throughout the nation, the cost of this new draft
11 has never even been estimated.

12 Mr. President, as much as I dislike to, I shall
13 cast my vote against the new Constitution. I do not want to
14 close without paying my regards to you. When I came here I
15 knew that you were one of Maryland's great lawyers. Tonight
16 I can truthfully say that you are the greatest Marylander
17 I have ever had the privilege to know.

18 (Constitutional Convention rising, applause.)

19 DELEGATE DORSEY: Mr. President, let me add that
20 the 142 members who comprise this body are the most
21 conscientious and dedicated group that I have ever known to

1 gather in this historic building. As I say it, sir, it is
2 with reluctance that I vote against this document realizing
3 the great effort that has been put into it, but the final
4 vote rests with the people of Maryland and whether it is
5 adopted or not, I feel that the work here and the work that
6 was done by the Commission prior to the meeting of this
7 Convention will not be lost because I feel that it will be
8 a reference work in the reform of government in this State
9 for the next century.

10 THE PRESIDENT: Is there any further discussion?

11 (Cries of Question.)

12 THE PRESIDENT: Are you ready for the question?

13 The question arises on the adoption on third and
14 final reading of the entire Constitution and accompanying
15 schedules including the Preamble, Article 1 to 10 inclusive,
16 the Schedule of Transitional Provisions, and the Schedule
17 of Legislation.

18 A vote Aye is a vote in favor of the entire
19 document. A vote No is a vote against the entire document.

20 Cast your vote.

21 (Whereupon, a rollcall vote was taken.)

1 THE PRESIDENT: Has every delegate voted?
2 Does any delegate desire to change his vote?
3 The Clerk will record the vote.

4 (The Convention arose and applauded amidst a
5 flurry of confetti.)

6 THE PRESIDENT: The Convention will please come
7 to order.

8 The Chair feels very relieved that the pages con-
9 ceived the idea of confetti, peculiarly appropriate con-
10 stitutional confetti.

11 I felt very embarrassed at the remarks of Delegate
12 Dorsey and at the approbation which this group gave to me,
13 and I felt also, as I am sure every one of you did, the
14 great solemnity of the occasion. Sometimes tensions become
15 just a little too great, and I think that as a tension re-
16 liever, confetti couldn't be beat.

17 This is not the time for speeches, and after the
18 strain of the past eight hours or more, I don't propose to
19 make one.

20 I can only say that I sincerely appreciate the
21 statements made by Delegate Dorsey whom I have known personally

1 for many, many years and I am sincerely sorry that he feels
2 as he does about the Constitution, but I respect him for his
3 opinion. It is one which he has held for a long time. I
4 disagree heartily with his conclusion as he himself knows.
5 I think every delegate who leaves here this evening can
6 leave here with the feeling of having accomplished for the
7 State of Maryland a tremendous task and one which I am con-
8 fident the people of the State of Maryland will not only
9 endorse on May 14, 1968, but do so so overwhelmingly that
10 there could not be the slightest question about it.

11 In addition, I think that each and every delegate
12 can be proud when he leaves here this evening in the
13 realization that he has been playing a terrifically im-
14 portant role in the whole story of constitutional revision
15 in this country, because if Maryland had failed in this
16 endeavor, I think that the whole course of constitutional
17 revision among the states, the course which I believe and
18 all of you know I believe is terrifically important, would
19 be set back 50 years.

20 Maryland's success on May 14, of which I am so
21 confident as a result of the document which you have

1 adopted, will reverse the trend by which the people in various
2 states have been rejecting constitutional revision in recent
3 years.

4 A note has been passed to me to indicate that
5 the confetti did more than break the tension. It com-
6 pletely broke my train of thought because I did not announce
7 the final vote. I don't think I will ever forget those
8 numbers, but I will put them up again anyway.

9 There being 121 votes in the affirmative and 2
10 in the negative, the motion is carried. The entire Consti-
11 tution consisting of the Preamble, the 10 articles, the
12 Schedule of Transitional Provisions, and the Schedule of
13 Legislation is adopted on third and final reading.

14 The Chair recognizes Delegate Powers.

15 DELEGATE POWERS: Mr. President, Rule 53 requires
16 that a motion to adjourn the Convention sine die shall not
17 be voted upon until at least 48 hours after notice is given
18 to the delegates. Accordingly this will give notice that
19 at the conclusion of the session on Wednesday, January 10,
20 a motion to adjourn the Convention sine die will be made.

21 THE PRESIDENT: Are there any announcements?

1 No chairmen have committee meetings to announce
2 for tomorrow.

3 Delegate Morgan.

4 DELEGATE MORGAN: Mr. President, are we meeting
5 on Monday?

6 THE PRESIDENT: Yes, we will be meeting at 3
7 o'clock on Monday.

8 Any other announcements?

9 Delegate Morgan.

10 DELEGATE MORGAN: Then I am going to make an
11 announcement. The Committee on the Executive Branch will
12 hold a brief meeting on Monday.

13 THE PRESIDENT: Delegate Mudd.

14 DELEGATE MUDD: Likewise, Mr. President. The
15 Judicial Branch will hold a meeting in our regular room on
16 Monday.

17 THE PRESIDENT: Also in connection with the offi-
18 cial film which is being made at this last session, it was
19 our desire to have a film made of a few of the committees
20 in session. I believe that Mr. Moore, the Director of
21 Public Information, has arranged this.

1 Delegate Gallagher, has he made any arrangements
2 with your Committee?

3 DELEGATE GALLAGHER: Mr. President, the members
4 of Actors Equity of the Legislative Branch Committee will
5 be called in in their best blue collars on Monday.

6 THE PRESIDENT: Very well.

7 Are there any other announcements?

8 Delegate White?

9 DELEGATE WHITE: Mr. President, I came into this
10 Convention on September 12 uttering words that endeared us
11 to each other, all of us. I would like to make one or two
12 brief comments.

13 In observing the votes this evening, red
14 consistently appeared in one spot which caused me to feel
15 that there has been a high correlation between the early
16 attendance of one delegate and his vote tonight. I want to
17 ask, which is rhetorical more or less, how can the Honorable
18 Dorsey explain to the people in St. Mary's County the
19 possession of a pink Rover White.

20 THE PRESIDENT: Delegate Dorsey.

21 DELEGATE DORSEY: Mr. President, I feel that the

1 burden is on my good friend Delegate White to explain the
2 color of ~~Rover White~~, Ginger is chocolate brown.

3 THE PRESIDENT: Delegate White.

4 DELEGATE WHITE: Mr. President and fellow
5 delegates, my complexion is similar to ginger if he is
6 chocolate brown, but some people think I am a bit pink.

7 THE PRESIDENT: Any other announcements?
8 Delegate Powers.

9 DELEGATE POWERS: Mr. President, I move that we
10 adjourn until 3 p.m. on Monday.

11 THE PRESIDENT: Is there a second?

12 (The motion was duly seconded.)

13 THE PRESIDENT: All in favor signify by saying
14 Aye; contrary, No.

15 The Ayes have it and it is so ordered.

16 (Whereupon, at 9.15 p.m., the Convention
17 recessed, to reconvene at 3 p.m., Monday, January 8, 1968.)

18

19

20

21



a31430027761586b

UNIV. OF MD. COLLEGE PARK

